

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

November 2, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 2, 2006, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Darrell Downing, Chair; Don Anderson, Vice-Chair; Harold Warner Jr.; John W. McKay Jr.; Bill Johnson; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Bud Hentzen; Ronald Marnell; Hoyt Hillman; Morris K. Dunlap and Michael Gisick. Denise Sherman was not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner; David Barber, Advanced Plans Manager and Maryann Crockett, Recording Secretary.

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1. Approval of the October 5, 2006 MAPC minutes, Item 5; and approval of the October 19, 2006 MAPC minutes.

MOTION: To approve the October 5, 2006 minutes, item #5 and other corrected items.

HILLMAN moved, **WARNER** seconded the motion, and it carried (13-0).

Approval of the October 19, 2006 MAPC minutes.

MOTION: To approve the October 19, 2006 minutes.

HILLMAN moved, **WARNER** seconded the motion, and it carried (12-0). **DUNLAP** abstained because he was not present at the October 19 meeting.

BISHOP requested that the announcement made at the beginning of the meeting regarding how subdivision items would be handled be included in the minutes.

❖ SUBDIVISION ITEMS

2. Consideration of Subdivision Committee recommendations from the meeting of October 26, 2006.

- 2-1. **SUB 2006-96 One-Step Final Plat -- WALSH ADDITION**, located east of West Street and north of Maple.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2004-61) from SF-5, Single-Family Residential to MF-18, Multi-Family Residential subject to platting. A Protective Overlay #159 was also approved for this site addressing lighting, building height, screening, and parking. This plat includes the vacation of a portion of First Street.

STAFF COMMENTS:

- A. Municipal services are available.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The perimeter utility easement needs to be labeled as a "drainage and utility easement"**.
- D. Measured distances are needed on lot lines.

- E. Ties to previously platted lot corners are needed on the final plat tracing.
- F. On the final plat tracing, the word “proposed” shall be deleted from the drainage and utility easements.
- G. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- H. The platlor’s text shall include a corrected spelling of “utility easements”.
- I. On the final plat tracing, the MAPC signature block needs to reference “Darrell A. Downing, Chair”.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The right-of-way widths shall be denoted.
- L. Due to the right-of-way dedication, a guarantee is needed for paving at the intersection. **The Applicant will meet with City Engineering in this regard.**
- M. The platlor’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant’s engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary’s signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- U. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **WARNER** seconded the motion, and it carried (13-0).

❖ PUBLIC HEARINGS – VACATION ITEMS

3-1. VAC 2006-38: Request to Vacate a Portion of a Platted Alley

APPLICANTS: Gary & Leah Wickham Pete Schrepferman

LEGAL DESCRIPTION: The portion of the platted 14.25-foot wide alley ROW located between Lots 25 – 36, all dedicated in the Mathewson 3rd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located between 3rd and 2nd Streets and Cleveland and Indiana Avenues (WCC #I).

REASON FOR REQUEST: Revert to private property to control access to business.

CURRENT ZONING: The site is a platted, developed alley, all abutting and adjacent properties are zoned “LI” Limited Industrial

The applicant is requesting vacation of the approximately 300-foot long (x) 14.25-foot wide portion of the platted alley as described. This portion of the alley is the south most portion of a platted alley that runs from 3rd Street to 2nd Street. The applicant plans to redevelop/sell their property, which abuts both sides of the portion of the alley they propose to vacate. A possible redevelopment would include a loading dock, with access to the dock oriented towards Indiana Avenue. The applicant must dedicate public ROW on a portion of their property/lots to either Indiana or Cleveland Avenues to prevent the alley from becoming a dead end. A loading dock and access to it cannot be in the required dedicated public ROW that provides access to either Indiana or Cleveland Avenues. There are utilities, manholes and sewer line in this portion of the alley. The alley is in the Gilbert – Mosley district and comments are needed from Environmental Health. Comments are also needed from Storm Water in regards to any possible drainage issues. The Mathewson 3rd Addition was recorded with the Register of Deeds May 7, 1886.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted alley ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 12, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted alley ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted alley ROW described in the petition should be approved with conditions;
- (1) Retain the alley as an easement. Comments from Storm Water in regards to drainage & Environmental Health in regards to Gilbert – Mosley must be incorporated into the final conditions of the vacation request.

- (2) Dedicate, by separate instrument, 5.75-feet of additional easement, the length of the vacated alley. This must be provided to Staff prior to the case going to WCC for final action.
- (3) Dedicate, by separate instrument, a minimum of 20-feet of right-of-way, on the north side of either Lots 35 or 36, between Indiana and Cleveland Avenues, Mathewson 3rd Addition, to provide access from the remaining alley ROW to either Cleveland or Indiana Avenues. This must remain open at all times and be completely clear of any obstructions, including no parking and cannot be used as access/staging area for a loading dock. This dedicated ROW must be constructed with concrete, per City Standards. Provide Staff with a guarantee to ensure the construction of the dedicated ROW and its entrance onto either Cleveland or Indiana Avenues. These must be provided to Staff prior to the case going to WCC for final action.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (5) All improvements shall be according to City Standards. If the drive onto 2nd Street is to remain open it must be constructed to City Standards and at the owner's expense. If the alley is to be closed, the continuation of the curbing and reconstruction of the sidewalk must be to City Standards and at the owner's expense. Provide the City with a guarantee/petition for these improvements. These must be provided to Staff prior to the case going to WCC for final action.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain the alley as an easement. Comments from Storm Water in regards to drainage & Environmental Health in regards to Gilbert – Mosley must be incorporated into the final conditions of the vacation request.
- (2) Dedicate, by separate instrument, 5.75-feet of additional easement, the length of the vacated alley. This must be provided to Staff prior to the case going to WCC for final action.
- (3) Dedicate, by separate instrument, a minimum of 20-feet of right-of-way, on the north side of either Lots 35 or 36, between Indiana and Cleveland Avenues, Mathewson 3rd Addition, to provide access from the remaining alley ROW to either Cleveland or Indiana Avenues. This must remain open at all times and be completely clear of any obstructions, including no parking and cannot be used as access/staging area for a loading dock. This dedicated ROW must be constructed with concrete, per City Standards. Provide Staff with a guarantee to ensure the construction of the dedicated ROW and its entrance onto either Cleveland or Indiana Avenues. These must be provided to Staff prior to the case going to WCC for final action.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (5) All improvements shall be according to City Standards. If the drive onto 2nd Street is to remain open it must be constructed to City Standards and at the owner's expense. If the alley is to be closed, the continuation of the curbing and reconstruction of the sidewalk must be to City Standards and at the owner's expense. Provide the City with a guarantee/petition for these improvements. These must be provided to Staff prior to the case going to WCC for final action.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **JOHNSON** seconded the motion, and it carried (13-0).

3-2. VAC 2006-39: Request to Vacate a Portion of a Floodway Easement.

APPLICANT/OWNER: Shamrock Development, LLC c/o Shawn Penner

LEGAL DESCRIPTION: Generally described as a portion of the platted floodway easement that runs at a width of 20-feet wide (north end) to 100-feet wide (south end) along the east side of Lot 1, Block B, Linder Addition, as recorded with Wichita, Sedgwick County, Kansas

LOCATION: Generally located between State Highway K-96 and 37th Street North, on the east side of Woodlawn Boulevard

REASON FOR REQUEST: Redevelopment

CURRENT ZONING: The site and the abutting southern property is zoned “LC” limited Commercial. The abutting eastern property is zoned “SF-5” Single-family residential and the abutting northern property is zoned “MF-29” Multi-family Residential. Public street right-of-way (Woodlawn Boulevard) ROW abuts its west side

The applicant is requesting consideration to vacate a portion of the described platted floodway easement. The floodway easement is part of a series of reserves and drainage dedications that runs northeast – southwest over an area that is part of the Chisholm Creek drainage: Chisholm Creek Park is approximately ¼-mile southwest of the site. There are no utilities, manholes, sewer or water lines in the platted floodway easement. Storm Water Engineer is reviewing drainage plans. There is a platted 10-foot (x) 20-foot utility easement on the north end of the platted floodway easement. The Linder Addition was recorded with the Register of Deeds June 4, 1996.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted floodway easement, as described, with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time October 12, 2006 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted floodway easement and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted floodway easement, described in the petition should be approved with conditions;

1. The platted floodway easement will be retained until the Storm Water Engineer, Public Works and franchised utilities have determined if any or all of the platted floodway easement can be vacated. Provide Storm Water with required drainage plans for review and approval. Provide Planning Staff with an approved legal description of the vacated portion of the platted floodway easement on a word document via e-mail to be used with the vacation petition and order.

2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any needed replacement easements and provide a guarantee for any required improvements to the platted floodway easement.
3. Retain the platted 10-foot (x) 20-foot utility easement located on the north end of the platted floodway easement.
4. All improvements shall be according to City Standards and at the applicant's expense.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The platted floodway easement will be retained until the Storm Water Engineer, Public Works and franchised utilities have determined if any or all of the platted floodway easement can be vacated. Provide Storm Water with required drainage plans for review and approval. Provide Planning Staff with an approved legal description of the vacated portion of the platted floodway easement on a word document via e-mail to be used with the vacation petition and order.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any needed replacement easements for relocated utilities and provide a guarantee for any required improvements to the platted floodway easement.
- (3) Retain the platted 10-foot (x) 20-foot utility easement located on the north end of the platted floodway easement.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

BISHOP referenced a portion of the staff report on the case concerning the vacation of the floodway easement and asked why the application was being sought. She said the application says redevelopment; however, she said would like to speak to either the applicant or the agent.

LONGNECKER explained since neither the applicant nor agent was present at the meeting, that an additional building and surface parking lot would be added to the site.

BISHOP said she could not support a motion for the recommended action on the staff report because it seemed to her like "putting the cart before the horse," because there was no approved drainage plan.

HILLMAN explained that an approved drainage plan was part of the conditions.

BISHOP said she would rather have the storm water engineer approve the drainage plan prior to the vacation order going forward.

LONGNECKER said if the conditions as listed were not met, the case would not continue to the governing body for final action, and the vacation order, therefore, would not be recorded. It would die between the MAPC hearing and the governing body.

BISHOP said she understood that; however, she said sometimes cases get to be like “a snowball going down hill,” and once it has received even conditional approval from the MAPC, that put more pressure on the rest of the process. She said she would rather hear from the storm water engineer first.

JOHNSON commented that was why the MAPC had a Subdivision Committee. He said the storm water engineer was at that meeting last week, and the issue was addressed, and that was why the case was approved. He said if the MAPC does not want to take into account the recommendation of the Subdivision Committee, maybe that committee needs to be eliminated, and all cases heard by the MAPC.

MOTION: To approve subject to staff recommendations.

HILLMAN moved, **ANDERSON** seconded the motion, and it carried (11-2).
BISHOP and **DUNLAP** – Nay.

❖ **PUBLIC HEARINGS**

4. **Case No.: ZON2006-41** – Newman University c/o Mark Dresselhaus Request: Zone change from “GO” General Office and “SF-5” Single-family Residential to “U” University on property described as;

Lot 1, Block 1, Newman University 2nd Addition, Sedgwick County, Kansas. Generally located on the northwest corner of McCormick and Sheridan (south of Kellogg and east of K-42 Highway)

BACKGROUND: The applicant requests “U” University zoning on Lot 1, Block 1, Newman University Second Addition, to develop as student housing and for university purposes. The “GO” General Office zoned portion of the site is currently developed as two, two-story apartments (built 1981), a two-story duplex with attached single car garages, a two-story single-family residence with an attached single car garage and a stand alone four car garage. The “SF-5” Single-family Residential zoned portion has a stand alone two car garage on the southeast portion while the rest is not developed.

The entire site is owned by Newman University, whose campus is located east and across Sheridan and McCormick Avenues from the site. The Newman University campus is zoned “B” Multi-family Residential and developed with buildings containing administration offices, classrooms and other uses associated with a small college. Playing fields, zoned “SF-5” Single-family Residential, used by the university’s sports teams are located south, across McCormick, from the site. Also located south of the site, across McCormick, is the “SF-5” zoned Westar Sheridan Electric Substation. Abutting the west side of the site is the Koons auto salvage yard, zoned “LI” Limited Industrial. The Koons site is the beginning of an extensive area of “LI” zoned properties, which begins immediately west of the Newman, and the “Adores of the Blood of Christ” religious order properties (Newman playing fields owners) and extends west, crossing West Street, to the Big Ditch, from Kellogg Street south to IH-235 and beyond. Development in the immediate “LI” area includes warehouses, a hardwood mill, outside storage, manufacturing and equipment sales and rentals. Abutting the site’s north side is Kellogg Street, which separates it and Newman’s campus from a predominately single-family residential neighborhood.

The proposed zone change, from “GO” and “SF-5” to “U,” and the proposed development, would require conformance to all property development standards in the Wichita-Sedgwick County *Unified Zoning Code* (UZC).

CASE HISTORY: The site was recorded with the Register of Deeds as the Newman University Second Addition October 19, 2005.

ADJACENT ZONING AND LAND USE:

NORTH:	Public Street ROW	Kellogg Street
SOUTH:	"SF-5"	Newman playing fields, electric substation
EAST:	"B"	Newman University campus
WEST:	"LI"	Auto salvage yard, warehouses, wood mill, outdoor storage, equipment rental and sales

PUBLIC SERVICES: The property is located along McCormick and Sheridan Avenues. Sheridan Avenue is a local north-south street that ends at the site's parking lot and Kellogg Street and as a cul-de-sac further south of the site. Sheridan at this location serves the traffic going to Newman, its playing fields and the adjacent religious order properties/development. McCormick is an urban collector street that has recently been rerouted and redesigned with a planting strip between its east-west lanes. City water and sewer as well as all other utilities are available at the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide Map", identifies the application area as "Major Institutional". This category includes institutional facilities of a significant size and scale or operation and could include a range of uses such as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical treatment facilities.

The "U" district is designed to serve as a base district or as an overlay district intended to accommodate the development of universities, colleges, seminaries, or other institutions of higher learning. As a base district it shall be applied to the main campus owned or leased by the educational institution. It may also be used as an overlay district on adjacent residential properties when the Planning Commission and the Governing Body have determined that the adjacent area is a logical and desirable location for: (1) Expansion of the university, college, seminary, or other institutions of learning, (2) Fraternities, sororities and related uses, (3) Offices, meeting rooms, laboratories and other facilities for educational, fraternal, professional, religious and research organizations and institutions with a demonstrated relationship to the university, college, seminary or other institution of learning, & (4) Libraries, art galleries, museums and other non profit cultural facilities that would provide a public benefit by such locations. The "U" district corresponds generally to the "Public/Institutional" land use designation of the *Wichita-Sedgwick County Comprehensive Plan*. The requested zoning conforms to the *Wichita-Sedgwick County Comprehensive Plan*.

RECOMMENDATION: The site is essentially an extension of the Newman campus and the university's current and planned activities. The proposed "U" zoning is in conformance with the *Wichita-Sedgwick County Comprehensive Plan* and perhaps allows the university to begin to adopt a zoning classification that more truly identifies its function, rather than its current mix of "SF-5", "B" and "GO" zoning. As this property develops, the UZC's property development standards will apply. Based upon information available prior to the public hearings, planning staff recommends that the zone change request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The Newman campus, its associated playing fields, and the abutting religious order's property are the only non-industrial zoning ("B", "GO" and "SF-5") and development west of Southwest Boulevard to West Street and south of Kellogg Street to IH 235. The areas west and south of the site are zoned "LI" and are developed as an auto salvage yard, warehouses, manufacturing, equipment rental and sales and outdoor storage and display. East of Newman, railroad tracks run parallel to Southwest Boulevard with mostly "LI" zoning and nonresidential development abutting it.
2. The suitability of the subject property for the uses to which it has been restricted: All residential development on the site is zoned "GO", while the "SF-5" zoned portion of the site is mostly undeveloped, except for two free standing garages, which do not appear to have any function associated with the residences. The site abuts "LI" zoning, thus making the "SF-5" zoning probably inappropriate. Neither the "SF-5" nor the "GO" zoning match the intent of the university to redevelop the site as a more integrated part of the campus. The requested "U" zone change is a first for the Newman campus and its associated properties and more accurately fits the function of Newman.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This zone change, and proposed development, should have no detrimental effect on nearby property, as Newman owns all the

abutting and adjacent properties east and south of the site and the “LI” zoned auto salvage and Kellogg Street abut its west and north sides.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is in conformance with the “2030 Wichita Functional Land Use Guide Map”, which identifies the site and the Newman properties as “Major Institutional”.
5. Impact of the proposed development on community facilities: The requested rezoning should have not have any impact on community facilities.

BILL LONGNECKER, Planning staff presented the staff report.

MOTION: To approve subject to staff recommendations.

HILLMAN moved, **ALDRICH** seconded the motion, and it carried (13-0).

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5. **Case No.: ZON2006-42** – Country Hollow, LLC, Request a zone change from “SF-5” Single-family Residential to “MF-18” Multi-family Residential on property described as;

A tract of land lying within portions of Lots 25-37 inclusive, Block 1, Country Hollow Addition, an addition to Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows: BEGINNING at the northwest corner of said Lot 37, Block 1, said addition, thence along the north line of said Lot 37 for the next 3 courses on a platted bearing of N88 degrees 58'04"E, 360.00 feet; thence N44 degrees 35'03"E, 657.66 feet; thence N67 degrees 26'30"E, 504.19 feet to the northeast corner of said Lot 37; thence along the east line of said Lot 37, S00 degrees 33'23"E, 781.51 feet to the southeast corner of said Lot 37; thence S88 degrees 47'01"W, 8.23 feet to a point on a curve to the left; thence along the said curve 83.86 feet to the east line of said Lot 36, said curve having a central angle of 12 degrees 55'00", a radius of 372.00 feet, and a long chord distance of 83.68 feet, bearing S82 degrees 19'31"W; thence along the east line of said Lot 36, N29 degrees 38'23"W, 133.54 feet to a point lying 24.00 feet southeasterly of the northeast corner of said Lot 36; thence parallel with and 24.00 feet south of the north lines of said Lots 36-25 inclusive S60 degrees 21'37"W, 884.38 feet; thence N55 degrees 07'39"W, 213.48 feet to the south line of Gilbert Court being on a curve to the left; thence along the said curve and said Gilbert Court 217.41 feet to a westerly corner of said Lot 37, said curve having a central angle of 249 degrees 07'51", a radius of 50.00 feet, and a long chord distance of 82.35 feet, bearing N50 degrees 33'52"W; thence along a westerly line of said Lot 37, N25 degrees 37'18"W, 301.06 feet to the POINT OF BEGINNING.

Said tract CONTAINS: 667,570 square feet or 15.32 acres of land, more or less. Generally located midway between 127th & 143rd Streets East, south of US-54 and northwest of Gilbert and Glenwood Streets.

BACKGROUND: The applicant is seeking “MF-18” Multi-family Residential zoning on the north 24-feet of Lots 25-36, inclusive, all of Lot 37, all in Block 1, Country Hollow Addition. The 15.32-acre site is located on the south side of the Kellogg Street/US-54 – K-96 interchange, midway between 127th & 143rd Streets East, northeast of the Glen Wood & Gilbert Streets’ intersection. The site is a field with recently constructed streets going out to it.

As already noted, the site abuts the south side of the Kellogg Street/US-54 – K-96 interchange. This portion of the interchange is raised above the subject site, with a gradual descent as it heads east of the site onto US-54. Undeveloped properties to its south and west are being prepared for development as a “SF-5” zoned subdivision single-family, which the site is located in and of which it is a part. Properties to the east of the site are zoned “SF-5” and are either developed as a single-family subdivision (Springdale Lakes Addition, recorded July 5, 1979) or are currently developing into a single-family subdivision (Clear Creek Addition, recorded May, 29, 2003). The character of the area is developed and developing urban scale single-family residential. If approved the proposed “MF-18” zoning would be the only multi-family zoning on the south side of US-54, between IH-35 and 159th Street East, the Sedgwick-Butler County line. The nearest multi-family zoned site (“MF-29” Multi-family Residential) is approximately ¾-mile north of the subject site. This site shares a similar location issue as the subject site, in that it abuts the IH-35 interchange. In fact both the subject site and this other multi-family site abut part of the K-96 – IH-35 – US-54 interchange hub, making both of them probably less likely to be developed as single-family residential.

Compatibility height standards restrict building height to 35 feet adjacent to property zoned “TF-3” or more restrictive, except the building may increase one foot in height for every three feet of setback greater than 50 feet. The UZC’s standards for screening and landscaping and all other applicable development standards will be applied to the proposed “MF-18” subject site.

CASE HISTORY: The subject property is part of the Country Hollow Addition, which was recorded with the Register of Deeds, December 9, 2005.

ADJACENT ZONING AND LAND USE:

NORTH: Public right-of-way	US-54 & K-96 interchange
SOUTH: “SF-5”	Developing single-family residential
EAST: “SF-5”	Developed & developing single-family residential
WEST: “SF-5”	Developing single-family residential

PUBLIC SERVICES: The subject site has one point of access onto a public street, Gilbert Court a residential cul-de-sac that abuts the west side of the subject site and connects to Gilbert Street. There is also the possibility to establish another point of access onto Gilbert Street, a two-lane residential street, through the replat or vacation process. Gilbert, from the site’s western portion continues west, approximately 1/3-mile, to its intersection with 127th Street East. 127th is a two-lane minor arterial paved to county standards that intersects at Kellogg/US-54. At this time access onto US-54 off of 127th is limited, traffic cannot turn west onto US-54, but can turn east onto it. In the future, 127th is planned to intersect into a two-way frontage road, separated from US-54, that will allow traffic to move west to the Zelta – Kellogg Street’s intersection. No frontage road is planned east of 127th and if it were, it would dead-end at the K-96 ramp. This lack of direct access onto US-54 for west-bound traffic means traffic from the proposed multi-family site will take one of four routes: (1) Take US-54 east to 143rd Street East, do a legal u-turn off the left hand turn lane and go west from there. (2) Take Gilbert east to Lincoln Street, an urban collector, (which is lined up with Gilbert at the 127th intersection) and then proceed on Lincoln through single-family residential neighborhoods, past an elementary school to Greenwich Road. (3) When Gilbert is finished, take it east where it eventually (with several route options) intersects 143rd at Laguna Street. & (4) Take 127th south to Harry Street. 127th does not continue north of this intersection, it is stopped by the K-96 – IH-35 – US-54 interchange hub. All other utilities and services are available.

CONFORMANCE TO PLANS/POLICIES: According to the *Unified Zoning Code*, “MF-18” zoning is a high-density, multi-family residential district that “...is intended for application within the City of Wichita.” The *Comprehensive Plan*’s residential location guidelines state that: high density uses should be located within walking distance of schools; they should be directly accessible to arterial or collector streets and these uses should be sited where they will not overload or create congestion in existing or planned facilities. The site does not have direct access to an arterial or a collector street. It is approximately 1/3-mile from 127th, a minor arterial, and Lincoln Street, an urban collector. To get to 127th traffic would move on Gilbert, through the eastern portion of a single-family residential neighborhood. The “2030 Wichita Functional Land Use Guide” identifies the site as appropriate for “urban development mix”, and as being within the “Wichita 2030 Urban Growth Area”. The “urban development mix” category indicates a strong likelihood of future urban residential uses, including multi-family residential, institutional uses, local commercial uses and parks and open space use.

RECOMMENDATION: The issue with this site and the proposed “MF-18” zoning is access. The site has currently has one point of access onto a local street, Gilbert Court, a cul-de-sac abutting its west side. There is the potential for another point of access through the replat or vacation process. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replat or vacation within one year and the following provisions of Protective Overlay #182:

- (1) 35-foot setbacks will be established on the west and east sides of the site.
- (2) No lights allowed in the setbacks. All pole lighting will no taller than 15to20-feet and will be directed onto the site.
- (3) At least two points of access will be established by the replat or vacation process.
- (4) Prohibited uses are group home, limited, minor utility, & recycling collection station, private.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is primarily established single-family residential (1950s, 1970s & 1980s), or recently developed and currently developing single-family residential, all zoned “SF-5” along with the first “SF-20” zoned single-family residential subdivision. There is undeveloped “LC” zoned property on the southeast corner of 127th & US-54 intersection as well a “LI” Limited Industrial zoned warehouse-office on the southwest corner of the intersection.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned “SF-5” which allows a lower density of development and has fewer uses by right than the district requested. The property could be developed as zoned, however higher density urban type zoning may be more appropriate for this site that abuts the Kellogg Street/US-54 – K-96 interchange.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Density and traffic volumes will increase over current conditions if the requested zoning is approved. The subject parcel will serve to buffer the single-family uses from the K-96 – IH-35 – US-54 interchange hub. the K-96 – IH-35 – US-54 interchange hub.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is not in conformance with recommended location guidelines for high density residential uses, however, the request is in conformance with the land use recommendations of the *Functional Land Use Guide* and perhaps presents a more probable development scenario than single-family residential.
5. Impact of the proposed development on community facilities: Traffic volumes will increase and there will be an increased demand for municipal services the K-96 – IH-35 – US-54 interchange hub.

BILL LONGNECKER Planning Staff presented the staff report.

ALDRICH expressed concern about the lack of direct access to Highway 54 for westbound traffic, and the u-turn on 143rd Street. He also said that particular intersection was extremely dangerous.

LONGNECKER referred to the map and pointed out four different routes to get out of the proposed multi-family complex. He acknowledged that there was no direct access on to an arterial or collector street. He added that staff felt the site had more value as multi-family use.

Responding to a question from **BISHOP**, **LONGNECKER** explained that an individual couldn't turn west at the intersection of 127th Street and Highway 54. He added that there was a proposed frontage road from 127th Street east to Zelta, but that it was only a concept plan at this time, no Capital Improvement Program (CIP) funds had been allocated to the project.

GREG ALLISON, MKEC Engineering Consultants said it was the applicant's intention to replat or vacate to get multiple access points into the area. He referred to an area south of Highway 54 along 127th Street and explained that they would like to establish a more direct route to 127th Street through that area. He said they would also like to provide secondary access somewhere else. He said being so close to the Highway 54 interchange; they felt that multi-family zoning was a good transition into the 160+ lots of single-family housing currently being developed south of the proposed site. He mentioned that phase one of the project was currently being developed and that Gilbert Street was not completely finished. He said they were in agreement with staff comments and that they felt good about providing a secondary access to site.

MITCHELL clarified that any access they were proposing was all to the west.

ALLISON responded yes, but added that there was some discussion of connecting to a cul-de-sac on the southeast side of the site, but that access would be limited to emergency uses only.

Responding to a question from **BISHOP** concerning development on the southeast corner of Highway 54 and 127th Street, **ALLISON** explained that a previous Conditional Unit Plan had requested that the area be zoned Limited Commercial; however, he did not know if that request was approved. He said MKEC had been working with City Traffic Engineering to get more direct access off of 127th Street to Kellogg.

GARY LEGION, 818 S. Clear Creek Circle said he was there to represent the Spring Dale Lakes Neighborhood Association. He said they were against changing the current single-family zoning to multi-family. He said they believe it will adversely affect their property value, and that they were also concerned about the security of their homes and the personal security of residents in the area. He concluded by saying that they believed the proposed zone change would create safety problems for walkers, bicyclists and children in the area.

GREGORY DUCEY, 829 Clear Creek Circle said he lived near the proposed emergency exit, and that he was opposed to the zoning change for security and access reasons. He said he did not believe the City could force people not to go through their neighborhood from US-54 to 143rd and vice-versa. He also mentioned that when you have multi-family dwelling, people show less interest in care and maintenance of the property because they don't own it.

ANNETTE BOARDMAN, 826 S. Clear Creek said they bought their home in this neighborhood because it was a nice quiet area surrounded by nature. She mentioned the various types of wildlife they have seen in the area. She also mentioned that semi-trailers have overturned going from K-96 onto US-54, and commented on the number of accidents that have occurred at the intersection of 127th and US-54. She said the road winds through the neighborhood to get to the proposed apartment complex, and she was concerned that it will become a speedway. She said the proposal would be dangerous to a lot of people because there were no sidewalks in the area, but that the area was designed that way.

ROBERT BOARDMAN, 826 S. Clear Creek said the impact of this proposal on the wildlife and neighborhood would be a travesty.

DALE DOWNING, 14000 East Gilbert said there were 110 homes in the area and that their major concern was opening up Gilbert to go all the way through to 143rd. He said presently during rush hour, 143rd gets backed up about one half mile with people trying to make a left hand turn to go back towards Wichita. He said this proposal would create a major traffic problem with the people trying to get out on 143rd as well as people making the u-turn on 127th. He said the entire area was single-family residential, and trying to put in a multi-family area backing up to the single-family property will result in loss of property and home values in the area. He concluded by saying that the application does not conform to the Comprehensive Plan.

TED SEGLEM, 6005 S. Clear Creek said his garage is on Gilbert. He said he wanted to echo what his neighbors had said about declining property values, traffic, and the safety of walkers and other pedestrians. He also mentioned the vagueness of the agent's reporting with "if and buts" – "maybe we can get this done, and maybe we can get that done." He said between 7:00 and 8:30 a.m. the traffic is terrible. He said he often has to wait through 2-3 stoplights to turn west on Kellogg. He said access to the area is a major problem. He concluded by saying that on a personal note, he built in that area because he loved the place. He said he had looked at the way the area was zoned prior to building, and at that time, indication was that the area would be developed into residential homes. He said when he got the notice about the proposed rezoning, he felt like someone had kicked him in the stomach.

DONALD MANSON, 816 Clear Creek Circle said his house was adjacent to the proposed multi-family development. He said they looked at the zoning when they decided to build there and that the area was zoned for single-family residential, and that everything around them is zoned as single family. He said this proposal was not what was originally planned for the area. He said the staff report indicates that there is single-family zoning to west, south and east. He concluded by asking that the MAPC leave the zoning as single-family.

SALLY KONECNY, 871 S. Clear Creek said her house backs up to the area proposed to be developed into apartments. She said they purchased in the area because they love the privacy. She said she had a big concern about Gilbert Street being opened all the way through to 143rd Street. She mentioned that people have been killed at the intersection at 127th and US-54. She concluded by mentioning the concern about wildlife in the area, and that she shuddered to think what would be taken away from them.

GISICK asked if the applicant today is the same developer that developed the single-family homes?

KONECNY said a different developer developed their area.

SHELLEY PALMER, 801 S. Clear Creek said she lives in the cul-de-sac next to Kellogg. She said her biggest question was on the K-96 loop south towards Derby. She asked about access to go east? She said if this proposed development goes forward, traffic would be forced to go west. She said she did not believe the City would let go of land to extend K-96.

TONY BURKHALTER, 13909 East Gilbert said he was present to represent the Spring Lakes Homeowners Association. He said when the homeowners association championed a petition for streetlights; the neighbors adamantly opposed the streetlight proposal due to the adverse affects on wildlife in the area. He asked if the apartment complex would rise above the trees. He said another big concern was the safety of the children that walk through the area. He said the Spring Lakes Homeowners Association was adamantly opposed to proposed multi-family units.

GREG ALLISON, MKEC Engineering Consultants said they understand the access issues and that they were amenable to eliminating the southeast point of access if that is the direction of staff. He said he felt like they could resolve the issue and keep cars out of the neighborhood. He said not to focus on that one access as the only-way to 127th. He said the developer is developing a whole quarter section, and that there would be multiple access points. He mentioned that the developer also had a stake in how easy access is to the area.

ALDRICH asked how many residential units the developer was planning on building?

ALLISON indicated that 270 units was the maximum.

ALDRICH asked if they had met with Traffic Engineering for feedback regarding the proposed turnaround or u-turn?

ALLISON said not the one at 143rd, but that they had met with Public Works and Planning staff concerning accessing 127th off of Kellogg. He said they were trying to come up with ways that would make it a safe transition, a more logical choice rather than going through a neighborhood.

There was considerable discussion concerning traffic along Gilbert St.

ALLISON explained that Gilbert curves and turns through the neighborhood, and that it was not a direct shot.

MITCHELL asked if Gilbert was open from the edge of the old subdivision to 127th now?

ALLISON indicated that Gilbert Street was not paved all the way through, but was platted to connect and continue with the existing Gilbert to the east, and indicated on the map where the street paving currently ends.

JOHNSON asked about moving the emergency access from the southeast corner to the southwest corner, and how could they do that with the creek there?

ALLISON said they would take a portion of one of the lots to make an access point.

Responding to a question from **MARNELL**, **ALLISON** indicated that the same developer owned everything in the quarter section except one street.

ALDRICH asked why the request was not in conformance with the recommended location guidelines for high-density residential uses in the Comprehensive Plan?

LONGNECKER said it does not have direct access to an arterial or collector street.

(Tape 1, Side 2)

BISHOP said although at first blush she agreed that multi-family residential was a logical use for this piece of property; she was extremely troubled by the traffic patterns. She said the ideal situation would be for the developer to provide property for park and open space that could serve as a buffer to the residential area with access to commercial property developed to the west. She said her impression was that the plan for this property is just not ready, not until some of the issues are addressed.

MCKAY told everyone to "hold on to their hats" but that he agreed with **BISHOP**. He said the request was premature at this time and that the traffic problems need to be resolved, therefore he could not support the proposal at this point in time.

MOTION: To approve the application based on access issues being worked out when the subdivision plat was filed.

MITCHELL moved, **ANDERSON** seconded the motion.

SUBSTITUTE MOTION: To deny the application until traffic issues are resolved with "encouragement" that the other pieces of property be developed at the same time so that the development is handled in a more comprehensive way.

BISHOP moved, **MCKAY** seconded the motion, and it carried (11-2).

MITCHELL and **ANDERSON** – Nay.

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6. **Case No.: ZON2006-43** –John E. Dugan Family Partnership, L.P. / Robert W. Kaplan Request Zone change from "SF-20" Single-family Residential to "IP" Industrial Park on property described as;

That part of the North Half of the Northeast Quarter of Section 7, Township 28 South, Range 1 West of the 6th P.M. Sedgwick County, Kansas, described as beginning at the Northeast corner thereof; thence North 90 degrees 00'00" West along the North line of said North Half, 2294.62 feet to a point 538.07 feet East of the Northwest corner of said North Half; thence S 02 degrees 29'53" East parallel with the West line of said North Half 1142.10 feet; thence South 90 degrees 00'00" W parallel with the North line of said North Half, 538.07 feet to the West line of said North Half; thence South 02 degrees 29'53" East along said West line, 201.64 feet to the Southwest corner of said North Half; thence North 89 degrees 33'04" East along the South line of said North Half, 2783.45 feet to the Southeast corner of said North Half; thence N 02 degrees 24'04" West along the East line of said North Half, 533.02 feet; thence North 90 degrees 00'00" West parallel with the North line of said North Half, 625 feet; thence North 00 degrees 24'04" West parallel with the East line of said North Half, 330.30 feet; thence North 90 degrees 00'00"

East parallel with the North line of said North Half, 256.47 feet; thence North 01 degrees 35'13" East, 202.92 feet; thence North 90 degrees 00'00" East parallel with said North line, 361.50 feet to the East line of said North Half; thence N 00 degrees 24'04" West along said East line, 241.03 feet to the point of beginning. Generally located west of Maize Road and south of 31st Street South (66 acres)

BACKGROUND: The applicant requests "IP" Industrial Park zoning on a 66-acre unplatted site that is currently zoned "SF-20" Single-family Residential. The application area is located south of 31st Street South on the west side of Maize Road (103rd Street West). The property currently is in agricultural use. The applicant owns the 80 acres located to the south that was recently approved for IP zoning (ZON2006-00018), subject to platting. When that tract is combined with this case's tract, the applicant will be able to offer a large-scale shovel-ready industrial site in reasonable proximity to the airport and K-42.

West of Maize Road, the land located to the north, east and west of the site is zoned SF-20 and is mainly in agricultural or low-density residential use. The land south of the site has been approved for IP zoning subject to platting. Land further to the south is being developed as Harvest Ridge Addition, zoned "SF-5" Single-family Residential with 165 single-family lots in the first phase and another 245 approved as part of a preliminary plat on the western edge of the site. As of June 30, 2006, 38 homes were completed or under construction. The unincorporated community of Schulte is located to the southwest of Harvest Ridge Addition. St. Peter the Apostle Catholic Church and school is located in this community.

The area east of Maize Road is zoned LI Limited Industrial and is a large industrial area, anchored by the Wichita Mid-Continent Airport and Cessna Aircraft. A freight terminal is located on the northwest and northeast corners of K-42 and Maize Road (103rd Street West) and the remaining land north of K-42 is vacant. The land located south of K-42 area is zoned LI and SF-20 and developed with industrial park types of uses.

The subject tract is over one-half mile west of the area labeled 'Airfield, Approach Protection (AO)' of the "Airport Land Use Legend" (Airport Layout Plans for Wichita Mid-Continent Airport, Sheet 16 of 17). The property lies beyond the boundaries of the area identified for acquisition by the Airport. It is within the Airport Airspace Conical Surface with a height limit of 1482.5 feet, which is about 150 feet above the site elevation of 1,340 feet.

The Wichita Airport Authority advisory board has, in the past, indicated a preference against homes, schools and churches near airports and a desire for large industrial tracts ready for development.

When compared to the LI, Limited Industrial district, the IP district eliminates some of the LI institutional and commercial uses that would be objectionable to residents, as well as restricts the industrial/manufacturing uses to those with higher performance standards and site development standards. Uses allowed in LI but prohibited in IP are listed below. Conditional uses in LI that are prohibited in IP are denoted with an asterisk.

- (1) Institutional: church or place of worship; convalescent care facility; correctional facility; correctional placement residence; day reporting center*; golf course; hospital; school, elementary, middle and high; and
- (2) Commercial: funeral home; hotel or motel; kennel; marine facility, recreational; medical service; microbrewery; night club; nurseries and garden center; parking area, commercial; pawn shop; recreation and entertainment; retail, general; secondhand store; service station; sexually oriented business; tavern and drinking establishment; vehicle and equipment sales, outdoor; vehicle repair; and
- (3) Industrial: asphalt or concrete plant, general*; gas and fuel storage and sales; landfill*; mining or quarrying; oil or gas drilling*; rock crushing*; solid waste incinerator*; transfer station*; vehicle storage yard; wrecking/salvage yard*; and
- (4) Agricultural: agricultural processing; agricultural research; agricultural sales and service and grain storage.

Site development standards in IP are higher for setbacks, storage and screening. Building setbacks in IP are 50 feet for front and street side setbacks, 15 feet for interior and 10 feet for rear; the only setback requirement in LI is 20 feet for front setbacks. Maximum height is 60 feet rather than 80 feet. Outdoor storage is prohibited in the front setback or the required off-street parking or loading spaces, and cannot be visible from adjacent non-elevated street or ground level view of any adjacent lot.

CASE HISTORY: The site was received its current zoning in 1985 when countywide zoning went into effect.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Single-family Residential; agriculture
SOUTH:		Approved for IP, Industrial Park; undeveloped
EAST:	SF-20	Single-family Residential and LI Limited Industrial; residences, vacant industrial land
WEST:	SF-20	Single-family Residential; large-lot residential and agriculture

PUBLIC SERVICES: Maize Road (103rd Street West) is a two-lane paved county road designated as an urban minor arterial. Traffic counts were approximately 5,000 cars per day in 2005. Projected traffic volumes for 2030 are 14,500 vehicles per day. No future capital improvements projects are programmed for this segment of Maize Road. West 31st Street South is an unimproved two-lane sand and gravel section-line road.

Municipal water and sanitary sewer service are available to the site

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide Map, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* visually portrays this area as appropriate for “urban residential” use, and within the “Wichita 2030 urban growth area”. Urban development mix comprises predominately urban residential use with concentrations and/or pockets of major institutional uses, local commercial uses and park and open space uses. Residential Locational Guideline 1 recommends low-density residential uses be separated from adverse surrounding uses such as major industrial uses with appropriate buffering including open space, water bodies, abrupt changes in topography, and landscaping treatments.

In contrast, the property east of Maize Road (not included in the application area) is visually portrayed as “employment/industry center”, which is defined as centers or concentrations of employment in industrial, manufacturing, service or non-institutional sectors. Land Use-Industrial **Strategy IV.A1** recommends protecting industrial areas “from encroachment or expansion of residential land uses by requiring appropriate buffers for expansion of the residential use when a nuisance situation is likely to be created.” The Industrial Locational Guidelines recommend:

- (1) Industrial areas should be located in close proximity to support services such as major arterials, truck routes, highways, utilities trunk lines, rail spurs, and airports and as extensions of existing industrial uses.
- (2) Industrial traffic not feed directly into local streets in residential areas.
- (3) Located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas.

The Unified Zoning Code (UZO) would require a 25-foot compatibility setback between non-residential and residential development, and screening/buffering next to residential development. The Sedgwick County Access Management Policy would limit the number of access points and regulate the spacing along Maize Road. The requested IP zoning provides greater site development safeguards to buffer the impact of industrial use than the LI district.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year, and subject to a Protective Overlay with the following conditions:

1. A building setback of 100 feet shall be provided on the north, east and west property line.
2. The following uses shall be prohibited: auditorium or stadium; animal care, limited and general; convenience store; restaurants with drive-through or in-car service and with more than 2,000 square feet gross floor area; tattooing and body piercing; wireless communication facility.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning in the larger area is a mix of districts including SF-20 Single-family Residential, SF-20 approved for IP Industrial Park and LI Limited Industrial. Area uses include agriculture, large-lot residential and vacant industrial. With the approval of the tract to the south to IP the area is in transition from a predominately residential area with industrial uses to the east to a more non-residential setting.

2. The suitability of the subject property for the uses to which it has been restricted: The site could be used as currently zoned, however the IP zoning approved to the south may make residential uses less desirable on this tract.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The development standards contained in the IP district and the additional requirements contained in the proposed protective overlay will mitigate anticipated detrimental affects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Comments are regularly being made by economic development interests that this County is in need of shovel ready industrial land in order to attract new businesses. This rezoning, when combined with the tract to the south, will provide a site large enough to be marketed on a national scale. Denial would leave a tract that may be too small to be attractive to new business interests.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide Map, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* visually portrays this area as appropriate for "urban residential" use, and within the "Wichita 2030 urban growth area." However, the approval of IP Industrial Park zoning for the tract to the south indicates that the future uses anticipated by the Comprehensive Plan may be in transition, and this request is more consistent with current expectations.
6. Impact of the proposed development on community facilities: If approved the application will result in an increased demand for public services. However, those service demands can be addressed during platting with respect to extension of public sewer, water and road improvements.

DALE MILLER Planning Staff presented the staff report. He corrected the report on page 4, Item #1, to indicate, "building setback of 100 feet shall be provided on the *north, east, and west.*"

MITCHELL clarified that the area to the south of the proposed area was also zoned industrial.

BOB KAPLAN, 430 N. Market explained that when the south 80 acres was developed. He and Dugan worked with Greater Wichita Development and The Chamber who were in turn working with the Kansas Department of Commerce. He said they felt the area was too small to be marketed. He commented that Dugan owns the contiguous area; they simply wanted to add this parcel to the Industrial Park and plat it as one. He also mentioned that they don't need the setback on the south.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **HILLMAN** seconded the motion, and it carried (13-0).

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7. **Case No.: ZON2006-45/CUP2006-46** – Ritchie Associates, Inc. c/o Rob Ramseyer (owner); MKEC Engineering Consultants, Inc. c/o Greg Allison (agent) Request Zone change from "SF-20" Single-family Residential to "LC" Limited Commercial and Create Monarch Landing Community Unit Plan on property described as;

A tract of land lying in the Southeast Quarter, Section 1, Township 27 South, Range 2 East, of the 6th Principal Meridian, Sedgwick County, Kansas; said tract being more particularly described as follows: COMMENCING at the southeast corner of said Southeast Quarter, thence along the south line of said Quarter on a Kansas Coordinate System 1983 South Zone bearing of S88°55'31"W, 99.44 feet; thence N01°04'29"W, 75.00 feet to the POINT OF BEGINNING, thence parallel with said south line S88°55'31"W, 150.00 feet; thence S80°23'41"W, 101.12 feet to a point lying 60 feet north of said south line; thence S88°55'31"W, 1276.50 feet; thence N01°04'29"W, 27.75 feet to a point on a curve to the left; thence along the said curve 78.95 feet, said curve having a central angle of 14°22'58", a radius of 314.50 feet, and a long chord distance of 78.74 feet, bearing N08°15'58"W; thence N15°27'26"W, 53.77 feet to a point on a curve to the right; thence along the said curve 320.48 feet, said curve having a central angle of 107°22'58", a radius of 171.00 feet, and a long chord distance of 275.60 feet, bearing N38°14'02"E; thence S88°04'29"E, 142.28 feet to a point on a curve to the left; thence along the said curve 137.62 feet, said

curve having a central angle of 39°13'45", a radius of 201.00 feet, and a long chord distance of 134.95 feet, bearing N72°18'38"E; thence S37°18'14"E, 108.26 feet; thence N88°55'31"E, 354.03 feet; thence N01°04'29"W, 275.00 feet; thence parallel with and 650 feet north of said south line of said Quarter, N88°55'31"E, 730.00 feet to a point lying 60 feet west of the east line of said Quarter; thence parallel with and 60 feet west of said east line S00°38'46"E, 300.13 feet; thence S07°53'05"W, 101.12 feet; thence S00°38'46"E, 150.00 feet; thence S44°08'23"W, 35.49 feet to the POINT OF BEGINNING.

Said tract CONTAINS: 714,363 square feet or 16.4 acres of land, more or less. Generally located on the northwest corner of 21st Street North and 159th Street East.

BACKGROUND: The applicant proposes to create a commercial community unit plan containing approximately 16 acres consisting of three parcels for development. Proposed zoning is "LC" Limited Commercial. The property is located on the northwest corner of 21st Street North and 159th Street East. Parcel 1 is 6.7 acres in size and occupies the western half of the tract. Parcel 2 is 7.9 acres and Parcel 3 is 1.8 acres. Together, Parcels 2 and 3 form a traditional commercial corner of approximately 10 acres. Access is designated as being per Access Management Regulations on 21st Street North and locations are not specified; one major and one right-in/right-out access point are shown on 159th Street East.

Requested uses would be those allowed by right in LC except: assisted living, group residence, correctional placement residence, group home, parks and recreation, recycling collection station, utility, kennel, night club, pawn shop, sexually oriented business, tavern and drinking establishment and wireless communication facility.

Maximum building coverage would be 35 percent of the land area, which exceeds the Unified Zoning Code maximum allowable coverage of 30 percent; it will be recommended to reduce the coverage to 30 percent. Maximum gross floor area would be 35 percent. Building setbacks are proposed as 35 feet on north and west and 20 feet on east and north. The UZC minimum requirement is 35 feet. It is recommended the CUP setbacks on the east and north be revised to conform to UZC requirements.

Buildings would have uniform architectural compatibility and parking lots would have similar or consistent lighting elements, limited to 25 feet in height, lowered to 15 feet within 100 feet of residential use. Window display signs are limited to 25 percent of the window area.

Monument signage would consist of one sign on 21st Street North and one sign on 159th Street East at a maximum of 30 feet in height and 150 square feet in sign face area, and the remaining monument signs would be a maximum of 10 feet in height and 100 square feet in sign face area. The monument signs would be spaced 150 feet apart except that they have requested the spacing between the taller (30-foot) signs and adjacent signs may be allowed at 100-foot spacing. Flashing signs (except time, temperature, public service messages) moving, portable, billboards, banners and pennants would be prohibited.

The site currently is in agricultural use and is part of the Monarch Landing Addition plat that has been filed for the property plus the land to the north and northwest. This plat proposes approximately 200 residential lots, a new elementary school to the west, plus this commercial tract. The property to the south is zoned "SF-20" Single-family Residential; current development to the south consists of farmsteads, agricultural tracts and large suburban tracts. A vacant tract and a single-family subdivision are located to the southeast in Butler County. The property to the east on 21st Street North, also in Butler County is in agricultural use, but a hospital is under construction ¼ mile east and a school is under construction 1/8 mile north on 159th Street East.

CASE HISTORY: The property is unplatted. The property is requesting island annexation to the City of Wichita.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agricultural
EAST:	Butler County	Agricultural
SOUTH:	SF-20	Farmsteads, agricultural tracts and large suburban tracts
WEST:	SF-20, RR	Agricultural

PUBLIC SERVICES: Major access openings are undesignated on 21st Street North and one full movement and one right-in/right-out opening are shown on 159th Street East. 21st Street North is an urban principal arterial developed as a four-lane road with shoulders. 159th Street East is an unpaved two-lane urban minor arterial.

Traffic projections for 2030 on 21st Street North for eastbound 21st at 159th Street East are 15,000 vehicles per day and for westbound are 17,000 vehicles per day. The 2030 projection for 159th Street North is 2,000-5,000 vehicles per day.

Other municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for “local commercial” at the intersection and “urban development mix” for the balance of the tract. The proposed development is in conformance with this designation except that the size of the tract (16 acres) somewhat exceeds the size shown for local commercial (approximately 6-10 acres).

Commercial Objective III.B encourages future commercial areas to: “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” The tract has access due to its location on the 21st Street North, but currently this street is congested during peak volume hours and increased traffic from this site will aggravate this situation. No significant clusters of retail commercial activities are located at this intersection today although the southwest corner also is designated for local commercial use. A hospital is under construction to the east and a school to the north; a school is planned for the adjacent property to the west. Minimizing detrimental impacts to the residential neighborhood to the north (Monarch Landing) can be improved with additional land use and site restrictions. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, and a site circulation plan, and combined ingress-egress. Requirements for similar landscaping and shared or similar signage would enhance compatibility with the objective/strategies of the Comprehensive Plan. **Strategy III.B.3** seeks to reduce access points along arterial streets. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 25 feet, reduced to 15 feet within 100 feet of residential use. Wider setbacks, enhanced landscaping and use restrictions would mitigate conflicts with the residential properties.

RECOMMENDATION: The recommended changes reduce the intensity of uses and strengthen the buffering of the site on the portion of the CUP most visible from the residential areas to the north, and enhance the compatibility of the CUP with *Comprehensive Plan* and Unified Zoning Code regulations for planned commercial uses in proximity to residential areas. Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

A. APPROVE the zone change (ZON2006-45) to LC Limited Commercial subject to platting of the entire property within one year;

B. APPROVE the Community Unit Plan (DP-303), subject to the following conditions:

1. Transportation improvements:
 - a. Revise access on 21st Street North to show proposed access points, in conformance to Access Management Policy.
 - b. Provide petition(s) to guarantee construction of left turn center lanes to all major entrances and decel lanes into all major entrances.
2. Revise Parcel Descriptions as follows:
 - a. Total allowable floor ratio, eliminate the phrase: “(may be adjusted from parcel to parcel)”
 - b. Arterial street setback = 35 feet
 - c. Interior side setback = 15 feet (See General Provision #9)
 - d. Revise Parcels 1-4 Descriptions to limit the maximum building coverage to 30 percent of land area
 - e. Correct the maximum building coverage, maximum gross floor area and FAR calculations

- f. Revise to add "Maximum Number of Buildings = 5" for Parcels 1 and 2, "Maximum Number of Buildings = 1" for Parcel 1
3. Add to General Provision #3A: "cemetery; golf course; marine facility, recreational; all industrial, manufacturing and extractive uses."
4. Delete from General Provision #3B: "unless specifically identified."
5. Add General Provision #3C: Parcel 1 shall be restricted to those uses permitted within the "NR" Neighborhood Retail zoning district. No overhead doors, drive-through or in car service (for restaurants, banks, etc), service station, fuel outlets or gas pumps shall be permitted within 200 feet of residential zoning and shall not be facing any residential zoning district, and queuing for drive-through lanes (restaurants, ATMs, etc.) shall not direct vehicle headlights into any abutting residential zoning district."
6. Add General Provision #3D: "No single tenant shall exceed 40,000 square feet except a drug store or a grocery store on Parcel 2."
7. Add General Provision #3E: In the event that the area of Parcel 1 abutting the right-of-way on Monarch Landing collector street is developed with uses allowed by right in the "NO" Neighborhood Office zoning district except an ATM, and if the uses have a front façade facing the Monarch Landing collector street and if the uses have no outdoor work, storage or loading activities between the street wall line and the right-of-way, then the masonry screening wall may be replaced with a landscaped street yard per the Wichita Landscape Ordinance.
8. Revise first sentence of General Provision #4: "as approved by the Director of Planning." Revise second sentence by deleting ", unless approved by the Director of Planning."
9. Add to General Provision #6A: "and shall utilize a shared palette of landscape materials."
10. Add to General Provision #7E: "and is prohibited on Parcel 1."
11. Add to General Provision #8A: "with screening materials matching the building roof or wall materials."
12. Add to General Provision #8B: "with materials matching or similar to the building façade materials."
13. Modify General Provision #8E: "A screening wall in conformance with Section III-C.2.b shall screen Parcels 1 & 2, unless on Parcel 1 only and where the property line abuts the Monarch Landing street right-of-way, if the building is constructed with a front façade with no outdoor, work or storage or loading dock activities between the street wall line and the Monarch Landing collector street."
14. Revise General Provision #8F: connect sentences 1, 2 and 3 to make a complete sentence.
15. Add to General Provision #10B: add the word "offsite" after billboard.
16. Revise General Provision #10C: Ground signs shall consist of all monument style signs, and share similar elements in design." One sign on 21st Street North and one sign on 159th Street East shall have a maximum height of 25 feet and a maximum sign face area of 150 square feet and be used for development identification as well as tenant signs for tenants within the CUP. Additional monument signs shall have a maximum height of 10 feet and a maximum sign face area of 100 square feet."
17. Revise General Provision #10D: "Signs shall be spaced a minimum distance of 150 feet apart except that this spacing may be reduced to 100 feet between the development identification sign and the adjacent monument sign. However, calculations of the maximum number of sign locations per street frontage shall be based on a distance separation of 150 feet between sign locations (allowing a maximum of eight signs on 21st Street North and four on 159th Street North when one sign is shared at the corner of Parcel 3)".
18. Delete language in General Provision #10E and replace with language in #10J.
19. Delete language in General Provision #10F and replace with language in #10I.
20. Delete General Provision #10H.
21. Revise General Provision #10E: "Building wall signs shall be prohibited on the north and west elevations of Parcels 1 and 2 except may be permitted in conformance with NR signage regulations of the Wichita Sign Code on Parcel 1."
22. Add to General Provision #10F: ", and 0.5 times the linear frontage on Monarch Landing collector street."
23. Revise General Provision #14B & #14C to conform to Recommendation #1 herein.
24. Revise General Provision #14D: Revise sentence 2 "The traffic circulation plan shall assure smooth internal vehicular movements, joint use of ingress/egress openings, and ensure that the main drives are not blocked by parking spaces directly backing onto the main drive aisles. The pedestrian circulation system shall connect all buildings within the development to each other and to the arterial sidewalks on 21st Street North and 159th Street East; and may connect to adjoining properties."
25. Add General Provision #14E: "A site traffic and pedestrian circulation plan for each parcel, upon request for a building permit, shall be reviewed for compliance with the overall site traffic and pedestrian circulation plan."
26. Add General Provision #14F: "Any request for direct access onto the Monarch Landing collector street from Parcel 1 shall require review and approval by the Traffic Engineer and may be restricted and/or denied due to safety factors."

27. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
28. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
29. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
30. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-303) includes special conditions for development on this property.
31. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site currently is in agricultural use and is part of the Monarch Landing Addition plat that has been filed for the property plus the land to the north and northwest. This plat proposes approximately 200 residential lots, a new elementary school to the west, plus this commercial tract. The property to the south is zoned "SF-20" Single-family Residential; current development to the south consists of farmsteads, agricultural tracts and large suburban tracts. A vacant tract and a single-family subdivision are located to the southeast in Butler County. The property to the east on 21st Street North, also in Butler County is in agricultural use, but a hospital is under construction ¼ mile east and a school is under construction 1/8 mile north on 159th Street East.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for the use as currently zoned (urban residential) but according to the Comprehensive Plan, at least a portion is appropriate for less intensive commercial use/local commercial uses such as allowed in the NR zoning district or selected LC zoning uses that are not large in scale or accompanied by activities such as drive-through windows, overhead doors associated with vehicle repair, limited.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As recommended with the additional CUP provisions, the scale and impact of the CUP with LC zoning would be mitigated by the use restrictions and site development requirements related to access management, landscaping, screening, lighting and signage.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "local commercial" at the intersection and "urban development mix" for the balance of the tract. The proposed development is in conformance with this designation except that the size of the tract (16 acres) somewhat exceeds the size shown for local commercial (approximately 6-10 acres). **Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The tract has access due to its location on the 21st Street North, but currently this street is congested during peak volume hours and increased traffic from this site will aggravate this situation. No significant clusters of retail commercial activities are located at this intersection today although the southwest corner also is designated for local commercial use. A hospital is under construction to the east and a school to the north; a school is planned for the adjacent property to the west. Minimizing detrimental impacts to the residential neighborhood to the north (Monarch Landing) can be improved with additional land use and site restrictions. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, a site circulation plan, and some combined ingress-egress. Requirements for similar landscaping and shared or similar signage would enhance compatibility with the objective/strategies of the Comprehensive Plan. **Strategy III.B.3** seeks to reduce access points along arterial streets. **Commercial Locational Guideline #1** of the Comprehensive

Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 25 feet, reduced to 15 feet within 100 feet of residential use. Wider setbacks, enhanced landscaping and use restrictions would mitigate conflicts with the residential properties.

5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase significantly on 21st Street North, making it critical to limit the access to those Access Management Policy and require left-turn center lane and decel lane improvements.

DONNA GOLTRY Planning Staff presented the staff report, and the following memo that contains substitute recommendations and its companion findings.

TO: Metropolitan Area Planning Commission

FROM: Donna Goltry, Principal Planner, Current Plans Division

DATE: November 2, 2006

SUBJECT: Recommendations for CUP2006-46; ZON2006-45 DP-303 Monarch Landing Community Unit Plan

DP-303 Monarch Landing Community Unit Plan is proposed for the northwest corner of 21st Street North and 159th Street East. Most of the site is oriented to 21st Street North and is typical of development expected on planned commercial sites. However, Monarch Landing Parkway, a residential collector street, forms the west and northwest boundaries of Parcel 1. The proposed uses for the property across the Monarch Landing Parkway are an elementary school and a reserve for drainage purposes. Staff's original recommendations were tailored to allow lower intensity commercial uses possibly facing Monarch Landing Parkway with special site and use restrictions. Staff and the applicant have discussed these recommendations and have offered modifications to the original staff recommendation, but with the same intent of allowing the lower intensity uses along Monarch Landing Parkway but with enhances site/use restrictions. These modifications are delineated in the recommendations included in this memo.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-45) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-303), subject to the following conditions:
 1. Transportation improvements:
 - a. Revise access on 21st Street North to show proposed access points, in conformance to Access Management Policy.
 - b. Provide petition(s) to guarantee construction of left turn center lanes to all major entrances and decel lanes into all major entrances.
 2. Revise Parcel Descriptions as follows:
 - a. Total allowable floor ratio, eliminate the phrase: "(may be adjusted from parcel to parcel)"
 - b. Arterial street setback = 35 feet
 - c. Interior side setback = 15 feet (See General Provision #9)
 - d. Revise Parcels 1-4 Descriptions to limit the maximum building coverage to 30 percent of land area
 - e. Correct the maximum building coverage, maximum gross floor area and FAR calculations
 - f. Revise to add "Maximum Number of Buildings =7" for Parcels 1 and 2, "Maximum Number of Buildings = 2" for Parcel 3-
 3. Add to General Provision #3A: "cemetery; golf course; marine facility, recreational; all industrial, manufacturing and extractive uses; delete exclusion of group homes."
 4. Delete from General Provision #3B: "unless specifically identified."

5. Add General Provision #3C: Parcel 1 shall be restricted to those uses permitted within the “NR” Neighborhood Retail (but not including Special NR district regulations for commercial use size limit and district size limit) and “GO” General Office zoning districts. In any parcel, no overhead doors, drive-through or in car service (for restaurants, banks, etc), service station, fuel outlets or gas pumps shall be permitted within 100 feet of any single-family residential lot and shall not be facing any single-family residential lot. For that portion of Parcel 1 adjacent to Monarch Landing collector street, queuing for drive-through lanes (restaurants, ATMs, etc.) shall not direct vehicle headlights into any abutting residential zoning district.”
6. Add General Provision #3D: “No single tenant shall exceed 100,000 square feet except a drug store or a grocery store on Parcel 2.”
7. Add General Provision #3E: In the event that the area of Parcel 1 abutting the right-of-way on Monarch Landing collector street is developed with uses allowed by right in the “NO” Neighborhood Office zoning district excluding ATM as a separate use plus the additional use of bank or financial institution including an associated ATM, and if the uses have a front façade facing the Monarch Landing collector street and if the uses have no outdoor work, storage or loading activities between the street wall line and the right-of-way, then the masonry screening wall may be replaced with a landscaped street yard per the Wichita Landscape Ordinance.
8. Revise first sentence of General Provision #4: “as approved by the Director of Planning.” Revise second sentence by deleting “, unless approved by the Director of Planning.”
9. Add to General Provision #6A: “and shall utilize a shared palette of landscape materials.”
10. Add to General Provision #7E: “and is prohibited on Parcel 1 when facing Monarch Landing street.”
11. Add to General Provision #8A: “with screening materials matching the building roof or wall materials.”
12. Add to General Provision #8B: “with materials matching or similar to the building façade materials.”
13. Modify General Provision #8E: “A screening wall in conformance with Section III-C.2.b shall screen Parcels 1 & 2, unless on Parcel 1 only and where the property line abuts the Monarch Landing street right-of-way, if the building is constructed with a front façade with no outdoor, work or storage or loading dock activities between the street wall line and the Monarch Landing collector street.”
14. Revise General Provision #8F: connect sentences 1, 2 and 3 to make a complete sentence.
15. Add to General Provision #10B: add the word “offsite except Project Title sign for Monarch Landing Subdivision” after billboard.
16. Revise General Provision #10C: Ground signs shall consist of all monument style signs, and share similar elements in design.” One sign on 21st Street North and one sign on 159th Street East shall have a maximum height of 25 feet and a maximum sign face area of 150 square feet and be used for development identification as well as tenant signs for tenants within the CUP. Additional monument signs shall have a maximum height of 20 feet and a maximum sign face area of 150 square feet.”
17. Revise General Provision #10D: “Signs shall be spaced a minimum distance of 150 feet apart except that this spacing may be reduced to 100 feet between the development identification sign and the adjacent monument sign. However, calculations of the maximum number of sign locations per street frontage shall be based on a distance separation of 150 feet between sign locations (allowing a maximum of eight signs on 21st Street North and four on 159th Street North when one sign is shared at the corner of Parcel 3)”.
18. Delete language in General Provision #10E and replace with language in #10J.
19. Delete language in General Provision #10F and replace with language in #10I.
20. Delete General Provision #10H.
21. Revise General Provision #10E: “Except on the west elevation of the southernmost 200 feet of Parcel 1, building wall signs shall be prohibited on the north and west elevations of Parcels 1 and 2 except wall signs may be permitted in conformance with NR signage regulations of the Wichita Sign Code on Parcel 1.”
22. Add to General Provision #10F: “, and 0.5 times the linear frontage on Monarch Landing collector street.”
23. Revise General Provision #14B & #14C to conform to Recommendation #1 herein.
24. Revise General Provision #14D: Revise sentence 2 “The traffic circulation plan shall assure smooth internal vehicular movements, joint use of ingress/egress openings as required by the Access Management Policy, and ensure that the main drives are not blocked by parking spaces directly backing onto the main drive aisles. The pedestrian circulation system shall connect all buildings

within the development to each other and to the arterial sidewalks on 21st Street North and 159th Street East; and may connect to adjoining properties.”

25. Add General Provision #14E: “A site traffic and pedestrian circulation plan for each parcel, upon request for a building permit, shall be reviewed for compliance with the overall site traffic and pedestrian circulation plan.”

26. Add General Provision #14F: “Any request for direct access onto the Monarch Landing collector street from Parcel 1 shall require review and approval by the Traffic Engineer and may be restricted and/or denied due to safety factors.”

27. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

28. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.

29. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

30. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-303) includes special conditions for development on this property.

31. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site currently is in agricultural use and is part of the Monarch Landing Addition plat that has been filed for the property plus the land to the north and northwest. This plat proposes approximately 200 residential lots, a new elementary school to the west, plus this commercial tract. The property to the south is zoned “SF-20” Single-family Residential; current development to the south consists of farmsteads, agricultural tracts and large suburban tracts. A vacant tract and a single-family subdivision are located to the southeast in Butler County. The property to the east on 21st Street North, also in Butler County is in agricultural use, but a hospital is under construction ¼ mile east and a school is under construction 1/8 mile north on 159th Street East.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for the use as currently zoned (urban residential) but according to the Comprehensive Plan, at least a portion is appropriate for less intensive commercial use/local commercial uses such as allowed in the NR zoning district or selected LC zoning uses that are not large in scale or accompanied by activities such as drive-through windows, overhead doors associated with vehicle repair, limited.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As recommended with the additional CUP provisions, the scale and impact of the CUP with LC zoning would be mitigated by the use restrictions and site development requirements related to access management, landscaping, screening, lighting and signage.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for “local commercial” at the intersection and “urban development mix” for the balance of the tract. The proposed development is in conformance with this designation except that the size of the tract (16 acres) somewhat exceeds the size shown for local commercial (approximately 6-10 acres). **Commercial Objective III.B** encourages future commercial areas to: “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” The tract has access due to its location on the 21st Street North, but currently this street is congested during peak volume hours and increased traffic from this site will aggravate this situation. No significant clusters of retail commercial activities are located at this intersection today although the southwest corner also is designated for local commercial use. A

hospital is under construction to the east and a school to the north; a school is planned for the adjacent property to the west. Minimizing detrimental impacts to the residential neighborhood to the north (Monarch Landing) can be improved with additional land use and site restrictions. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, a site circulation plan, and some combined ingress-egress. Requirements for similar landscaping and shared or similar signage would enhance compatibility with the objective/strategies of the Comprehensive Plan. **Strategy III.B.3** seeks to reduce access points along arterial streets. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 25 feet, reduced to 15 feet within 100 feet of residential use. Wider setbacks, enhanced landscaping and use restrictions would mitigate conflicts with the residential properties.

5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase significantly on 21st Street North, making it critical to limit the access to those Access Management Policy and require left-turn center lane and decel lane improvements.

GOLTRY referred MAPC members to the memo with the substitute staff recommendations that was provided at the meeting. She explained that the changes were a result of a meeting with the applicant the day before the MAPC hearing. She also mentioned that the City of Andover had requested minor modifications.

GREG ALLISON, MKEC Engineering Consultant said he was representing the applicant. He said they have had discussions with staff, and have come up with some language that establishes some controls that the City and developer are comfortable with; particularly on the west half of Parcel 1 due to its immediate proximity to the collector street that goes into the residential area.

HEIDI COBLE, 15511 21st Street N. had several questions regarding the proposal including the location of the entrances to the proposed businesses along 21st Street, if 21st Street is being expanded to four lanes, an explanation of the term "island annexation," and what types of business are considered light commercial? She said there was traffic congestion at the location now and that this is why she is concerned.

DOWNING explained that the location of business entrances is a platting issue not handled at this time. In addition, he said they did not know whether 21st Street would eventually be expanded to four lanes.

JOHN SCHLEGEL explained that "island annexation" meant that when the parcel was annexed into Wichita, it was not contiguous to Wichita's city limits.

ALLISON commented that access locations were discussed when the preliminary plat went before the Subdivision Committee several weeks ago. He said traffic engineering coordinated access points with openings in the median, and that would be further clarified through the platting process. He said it was his understanding that the County had been working on a project to expand 21st Street to five lanes, but that the project had been taken over by the City. Responding to Ms. Coble's question, he said the types of businesses planned for the area included a Walgreen's, a convenience store, and a multi-tenant type retail facility. He said there would be lower intensity of retail users on the west end of the parcel.

MARNELL asked staff specifically what Andover had requested? In addition, because of the revision in the staff report, he asked staff to briefly review the changes?

DONNA GOLTRY briefly reviewed the changes agreed to by the applicant, agent and staff as, including, but not limited to: increasing the number of buildings permitted on parcels; deleting the exclusion on group homes; limiting scope and intensity of uses on Parcel 1 to NR; no overhead doors facing single family lots; uses to include banks and financial institutions, general and medical offices (which are considered fairly low intensity uses) allowed along the collector street, with more signage on western and southern most part of Parcel 1; building signage would be more limited on north facades; and that paving petitions included normal requirements. She mentioned that there were some jurisdiction issues that needed to be worked out with Andover on access on 159th for the residential land north of this CUP and that access management and City Code requirements varied somewhat between the two cities.

BISHOP clarified that no changes had been made to the prohibitions on off site signs or billboards.

GOLTRY responded that was correct.

MOTION: To approve subject to staff recommendations.

JOHNSON moved, **BISHOP** seconded the motion, and it carried (13-0).

8. **Case No.: CON2006-43** – Cricket Communication (applicant); William R. & Jennifer W. Nath, Peter L. & Deborah K. Ochs, Robert D. & Roxanne Smith (owners) Request Conditional Use Permit for a 130-foot wireless communication facility (monopole) in “SF-5” Single-family Residential zoning on property described as;

Parent Parcel Legal Description

Lot 1, Trinity Academy, an Addition to Sedgwick County, Kansas EXCEPT that part described as: Commencing at the Southwest corner of said Lot 1, Trinity Academy, an Addition to Sedgwick County Kansas, thence N 00°56'05" W, 100.00 feet to a point of beginning; thence continuing N 00°56'05" W, 150 feet; thence N 89°13'46" E parallel with said South line, 200.00 feet; thence S 00°56'05" E 100.00 feet North of said South line" thence S 89°13'46" W parallel with said South line, 200.00 feet to the point of beginning.

Property Description of Leased area for Proposed Conditional Use

A 50-foot by 50-foot lease area and a 20-foot wide access easement situated in Lot 1, Trinity Academy, an Addition to Sedgwick County, Kansas more particularly described as follows:

Commencing at a point on the East Right-of-Way line of Founders Circle as it presently exists, 100 feet North of the Southwest corner of Lot 1, Trinity Academy, an addition to Sedgwick County, Kansas, (Fnd 5/8" iron bar w/LS Cap #39); thence north 23°07'25" East a distance of 75.07 feet (M) 75 Feet (R) from a point on the West Right-of-Way line of said Founders Circle (Fnd 5/8" iron bar w/ LS Cap #39); thence North 23°35'42" east, a distance of 280.12 feet to the Point of Beginning of Said 50 foot by 50 Foot Lease area; thence North 00°00'00" West a distance of 25.00 feet to a point hereinafter referred to as Point "A"; thence continuing North 00°00'00" West, a distance of 25.00 feet; thence South 90°00'00" East, a distance of 50.00 feet; thence South 00°00'00" West, a distance of 50 feet, thence South 00°00'00" West, a distance of 50.00 feet, thence South 90°00'00" West, a distance of 50.00 feet to the point of beginning, containing 2,500 square feet, more or less.

And a 20 foot wide access easement lying 10 feet on each side of the following described centerline:

Beginning at aforementioned Point "A", thence South 90°00'00" West, a distance of 116.38 feet to the point of termination on the east Right-of-Way of Founders Circle as it presently exists, containing 2,328 square feet, more or less. Generally located south of 21st Street North, midway between 127th Street East & K-96, on the east side of Founders Street

BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 130-foot monopole wireless facility on property zoned “SF-5” Single-family Residential, for use by Cricket Communication. The proposed 50-foot (x) 50-foot site is located in the southwest portion of Lot 1, Trinity Academy Addition located approximately 2,100-feet south of 21st Street North, with access onto Founders Street.

The “SF-5” zoned 40.85-acres plat where the site is located is developed as a private school, Trinity Academy and its associated playing fields, which are located south of the school building. A 5.1-acre tract zoned “SF-5,” with a single-family residence (built 1979) is located between the school and the site. The residence is approximately 730-feet north of the site, but its property line is approximately 130-feet from the proposed site. There is also a large tract single-family residence sitting on blocks on this residential site, which appears to be waiting to be transferred off the property. There is partially developed “LC” Limited Commercial zoned properties (retail; ZON2001-24,

CUP DP-256) and partially developed (medical facility) “GO” General Office zoned property (ZON2003-39) located north and west of the site, across Founders Street. The south most portion of the medical facilities site is a “SF-5” zoned floodway reserve. The recent rezoning (ZON2003-39) of what was “SF-5” zoned lots to the above mentioned “GO” and their subsequent and ongoing development as medical facilities resulted in three large tract single-family residences being removed from the “GO” property, leaving the above mentioned single-family residence north of the site as a isolated single-family residence. There are large lot (1.4 – 0.8-acre) “SF-5” zoned single-family residences approximately 1,060-feet east of the site, separated by a floodway reserve, numerous trees and the residential street Ridge Drive. There is a “SF-5” zoned partially developed cemetery (CU-205 & CU-79) south of the site, across an east to west 100-foot Rail Bank. Approximately 570-feet southeast of the site, across the Rail Bank, is a developed “SF-5” zoned single-family subdivision. There is an existing public utility approximately 100-feet south of the site; the proposed wireless tower needs to be a minimum distance of the height of the proposed wireless tower from this facility and all existing property lines. There are existing lines and groupings of trees south, east and west of the site.

The site plan shows the proposed site surrounded by a 6-foot wooden fence and evergreen trees planted evenly around the outside of the fence, with five trees on the east, west and south sides and four trees on the west side where the proposed access off of Founders is located; access onto the site will be as recommended by the traffic engineer. The applicant has submitted a determination of no hazard to air navigation letter from the FAA (Exhibit C) for a 130-foot monopole at this site. The applicant has also submitted a letter (supplemented with a map, Exhibits A & B) explaining the need for Cricket Communication to have a wireless facility at this location by contacting and field-testing the nearest wireless facilities that were not Cricket Communication facilities;(a) A wireless facility located approximately ½-mile northwest of the site, in the cemetery located south of K-96, the east side of Greenwich Road and north of 21st Street North, has four (4) carriers on it and is at full capacity & (b) A wireless facility located approximately 2-miles northeast of the site, midway between 21st Street North and 29th Street North, on the west side of 159th Street East, was to far away and thus did not provide the needed coverage improvement. The applicant also provided a letter (supplemented by a map, Exhibits D & E) why the existing Cricket Communication facilities could not be used or reengineered to provide the needed coverage improvement.

Currently Cricket Communication is the only proposed carrier on the tower, which will have the capacity for a total of four carriers.

CASE HISTORY: The site was annexed into the City between 1991 -2000. The site is part of the Trinity Academy Addition, which was recorded with the Register of Deeds August 20, 1999. Staff has received a letter protesting the proposed wireless facility from the single-family residence that is located between Trinity Academy and the proposed site.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-5”	Private school, single-family residence, undeveloped
SOUTH:	“SF-5”	Rail Banked COW, cemetery, single-family residences
EAST:	“SF-5”	Undeveloped, Single-family residences
WEST:	“GO”,”LC”	Medical offices, retail

PUBLIC SERVICES: No municipally supplied public services are required. The site has access to Founders Street, a local street designed as a cul-de-sac. Founders intersects with 21st Street North, a three-lane arterial.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: (1) on multi-story buildings or other structures; (2) on existing poles in street rights-of-way, parking lots, or athletic fields; (3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; (4) in wooded areas; (5) on identified city and county properties; or (6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: (1) preserve the pre-existing character of the area; (2) minimize the height, mass, or proportion; (3) minimize the silhouette; (4) use colors, textures, and materials that blend in with the existing environment; (5) be concealed or disguised as a flagpole, clock tower, or church steeple; (6) be placed in areas where trees and/or buildings obscure some or all of the facility; (7) be placed on walls or roofs of buildings; (8) be screened through landscaping, walls, and/or fencing; and (9) not use strobe lighting.

The “2030 Wichita Functional Land Use Guide Map”, identifies the application area as “Major Institutional”. This category includes institutional facilities of a significant size and scale or operation and could include a range of uses such as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical treatment facilities.

RECOMMENDATION: Although the proposed 40.85-acre plat the site is located on is zoned “SF-5” it is developed as a private school with its associated uses and thus its being identified as a “Major Institutional” use. Recent rezoning in the immediate area, from “SF-5” to “LC” and “GO”, has subsequently allowed medical and retail development in the area and removed all but one single-family residence in the immediate area. This remaining residence is approximately 730-feet north of the site, but its property line is approximately 130-feet from it. There are no streets, easements or barriers separating it from the proposed site, but there are some trees between it and the proposed site. The other existing single-family residential development in the area is anywhere from 570 to 1,050-feet from the proposed site, with a combination of street, Rail Bank, floodway easement and numerous trees in the spaces between them and the proposed site. A cemetery south of the site acts as another barrier between the proposed site and residences in the area. The proposed site offers distance, cover and a lack of immediate accessibility to it from most of those existing residences in the area. Existing established development and redevelopment in the area is and has been nonresidential. Planning staff finds that the proposed wireless communication facility conforms to the guidelines of the Wireless Communication Master Plan. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the Conditional Use be APPROVED subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a “monopole” design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be no greater than 130-feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions to 180 feet in height and future loading expansions to accommodate communication equipment for at least five wireless service providers, provided the FAA would approve such an extension. The applicant shall obtain FAA approval regarding “objects affecting navigable airspace” and “impacts to terminal instrument procedures” for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- G. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the area has recently evolved from large tract/lot single-family residential to a mix of institutional (Trinity Academy, and two recently built large churches north of Trinity) and recently constructed retail and medical. The remaining single-family residences in the neighborhood is separated from the proposed site by a minimum of 570-feet, streets, Rail Bank, floodway easement, a cemetery and numerous trees. The isolated single-family residence north of the site has no streets, Rail Bank, floodway easement or other barriers between it and the proposed site. It does have distance and some trees for existing screening. The institutional uses are zoned “SF-5”, the retail “LC” with a CUP overlay and the medical “GO” with a protective overlay. The single-family residences are zoned “SF-5”.
2. The suitability of the subject property for the uses to which it has been restricted: The plat the proposed site is located on could allow for future expansion of Trinity Academy or additional single-family development, although recent medical and office development in the area suggest that single-family development is not as likely as it had perhaps been. An extensive floodway, running north – south splits the plat and presents drainage issues to be resolved for any future development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: There will be visual impacts upon surrounding properties, in particular with the isolated single-family residence north of the proposed site. The proposed site's location places it at maximum distance from other single-family development. Its proximity to the Rail Bank, a cemetery, and a floodway easement, plus existing topography and trees help minimize its visual impact on those other single-family developments. As recommended, no other negative impacts are anticipated.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan. As recommended for approval, the proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity. No negative impacts on other community facilities are anticipated.

BILL LONGNECKER Planning Staff reported that the client had requested that the application be withdrawn and the case closed.

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9. **Case No.: CON2006-45** – Tyler's Landing Homeowners Association (Morris Steward) Request Conditional use to permit a neighborhood pool and playground in "SF-5" Single-family Residential on property described as;

Lots 37, 38, and 39, Block D, Tyler's Landing 3rd Addition, Wichita, Sedgwick County, Kansas. Generally located south of 37th Street and east of Tyler Road

BACKGROUND: The applicant requests a Conditional Use to permit a neighborhood swimming pool and neighborhood recreation on Lots 37, 38 and 39, Block D, Tyler's Landing 3rd Addition. The 0.75-acre subject property is located west and south of north Forest Ridge Street. The subject property is zoned SF-5 Single-family Residential and is currently undeveloped. A neighborhood swimming pool may be permitted on the subject property as a Conditional Use.

The character of the surrounding area is that of a developing single-family residential neighborhood. All of the surrounding properties are zoned SF-5 Single-family Residential, and are currently being developed with single-family residences. The application area abuts Reserve A located to the south and west of the application area. Reserve A is restricted to open space, utilities, drainage, landscaping, entry monuments and berm uses.

The attached site plan shows a 25-foot by 50-foot swimming pool, a 15-foot kiddie pool, 17 parking spaces (including one ADA designated space), a pool house containing restrooms and mechanical room, a tot lot playground and an open play area/sport court. As proposed, the parking area meets the Unified Zoning Code (UZY) required one space per 100-square feet of pool area plus one space per 100-square feet of associated building area. The site plan does not show screening to the north, as required per UZY Art. IV, Section IV-B.3.a, nor does the plan show landscaping to the east. Planning staff recommends that the required landscaping be installed per a landscape plan to be approved by the Planning Director prior to the issuance of a building permit.

CASE HISTORY: The subject property is Lots 37, 28 and 39, Block D, Tyler's Landing 3rd Addition, which was recorded September 5, 2005.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Developing single-family residences
SOUTH:	SF-5	Subdivision Reserve
EAST:	SF-5	Vacant lots and developing single-family residences
WEST:	SF-5	Subdivision Reserve

PUBLIC SERVICES: The subject property has access to Forest Ridge Street, a two-lane residential street. Water, sewer and other municipal services are available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the subject property as appropriate for “urban residential” development. This residential category provides for the lowest density of urban residential land use and consists of residential, as well as schools, churches and similar used found in such area. One of the objectives of the Plan is to “develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents.” The proposed neighborhood swimming pool is consistent with Land Use Guide and the identified objectives of the Comprehensive Plan.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan, except that the landscaping shall be in conformance with the landscape plan required by Condition #2.
2. The subject property shall be developed in accordance with the regulations of the Landscape Ordinance and screening shall be provided in accordance with Section IV-B.3.a of the Unified Zoning Code per a landscape plan approved by the Planning Director prior to the issuance of a building permit.
3. Development and use of the subject property for a neighborhood swimming pool shall be in accordance with all applicable federal, state and local rules and regulations, including building and construction codes, health codes and operational standards.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of a developing single-family residential neighborhood. All of the surrounding property are zoned SF-5 Single-family Residential, and are currently being developed with single-family residences or subdivision reserve features. A neighborhood swimming pool is accessory to and customarily associated with the zoning, uses and character of a low-density residential area.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: Locating a neighborhood swimming pool within a residential development will introduce more traffic and noise for the nearby residential properties. However, the recommended conditions of approval pertaining to screening and landscaping should address these problems. The proposed neighborhood swimming pool will be amenity to the neighborhood.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the subject property as appropriate for “urban residential” development. This residential category provides for the lowest density of urban residential land use and consists of residential, as well as schools, churches and similar used found in such area. One of the objectives of the Plan is to “develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents.” The proposed neighborhood swimming pool is consistent with Land Use Guide and the identified objectives of the Comprehensive Plan.
4. Impact of the proposed development on community facilities: The proposed swimming pool will increase trips to the site, but the impact should be minimal and will not exceed the capacity of the street. Many neighbors will have easy pedestrian access to the site because of its location.

MOTION: To approve subject to staff recommendations.

HILLMAN moved, **ALDRICH** seconded the motion, and it carried (13-0).

DOWNING suggested a 5-minute recess at 3:00 p.m.

Meeting reconvened at 3:05 p.m.

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10. **Case No.: PUD2006-2** - Multiple Applicants – see Department for details/Robert Kaplan Request Create a Planned Unit Development (PUD) on 12 acres to allow general retail, grocery store and similar type retail sales uses on property described as;

Tract A: Lot 1, Schmid Addition to Wichita, Sedgwick County, Kansas.

Tract B: The North 138 feet of Lot 2, Jim Burns Addition to Wichita, Sedgwick County, Kansas.

Tract C: Lot 2, except the North 138 feet thereof, Jim Burns Addition to Wichita, Sedgwick County, Kansas.

Tract D: Lot 1, except the West 10 feet thereof dedicated for street, and except the North 3.29 feet thereof, and all of Lots 2, 3 and 4, Block 1, Mission Heights, an Addition to Wichita, Sedgwick County, Kansas.

Tract E: Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Block 2, Mission Heights, an addition to Wichita, Sedgwick County, Kansas.

Tract F: The South 10 feet of Lot 3 and the North 55 feet of Lot 4, Block B, Nashville Park Addition to Wichita, Sedgwick County, Kansas.

Tract G: The South 5 feet of Lot 4 and all of Lot 5, Block B, Nashville Park Addition to Wichita, Sedgwick County, Kansas.

Tract H: Lots 6 and 7, Block B, Nashville Park Addition to the City of Wichita, Sedgwick County, Kansas.

Tract I: Lot 1, DeWitt 2nd Addition.

Tract J: Lot 1, Block B, Ann Walenta Addition, Wichita, Sedgwick County, Kansas. Generally located between Kellogg, Bleckley, Orme and Oliver

BACKGROUND: The application area is 12.2 acres located southeast of the Kellogg and Oliver intersection, north of Orme and west of Bleckley. Nash Special K's, LLC has secured options on approximately 29 tracts, and is seeking Planned Unit Development zoning (PUD-24) to allow re-development of the property for "any commercial use permitted by-right in the LC Limited Commercial district excluding: night club in the city, sexually oriented business, correctional placement residence, safety service, pawn shop, agricultural sales and service, commercial wireless communication facility, theatre and tavern and drinking establishment uses." The proposed PUD would allow up to 159,485 square feet of gross floor area or 30 percent coverage of the area of the site. It should be noted that the way the proposed use is listed, it excludes non-commercial uses such as office, public or civic or industrial, manufacturing or extractive uses that are permitted by-right in the LC district.

The expected use on the site is a Wal-Mart, however there are not any requirements within the PUD that require the site to be developed with any particular brand or company. The conceptual site plan shows a building with 135,229 square feet. The square footage is to be divided between 109,663 square feet of general retail sales and 25,566 square feet of grocery sales. The front of the building is to face west toward Oliver Street. Quik-Brik masonry having an "earth tone blend" color (orangish) along with Ouik-Brik masonry pilasters having a "promenade blend" color (redish) is to be used on the north, west and south sides of the building. The east side is to be a painted (canyon clay) smooth face brick. The facade will also have a band of "pure white" EFIS trim. General Provision 13 states that all buildings on Parcel 1 shall share uniform architectural character, color, texture and the same predominate exterior building material, with earth tone colors with a variety of textures with red and white accents.

Loading docks, a compactor and bale and pallet storage are depicted on the east side of the building (Bleckley). The loading docks, truck wells and bale and pallet storage are to be screened with 10-foot high masonry screening walls while the compactor is to be screened with an eight-foot high wall. Other work and storage areas including a garden center are to be located on the south side of the building (Orme). The garden center is to be screened from the south with four-foot eight-inch tall knee walls and 12-foot tall pilaster with black ornamental fencing and mesh panels. Building height is limited to a maximum of 40 feet.

The parking field is primarily located between the front or west side of the building and Oliver. Additional parking is shown along both the north and south property lines. Proposed access to the site is to be allowed by five driveways; two each along the Kellogg frontage road and Orme, and one off of Oliver. Because the Kellogg

frontage road is one-way to the east that makes those access drives right-in and right-out only. The two access points on Orme are shown as full movement. The applicant's site plan depicts a median located in Oliver at the Oliver access point that would make that entrance right-in and right-out as well. A traffic signal is proposed at the intersection of Orme and Oliver. If the site is developed with a Wal-Mart, they expect that there will be, on an average day, two to three trucks, but there could be as many as six to seven at busier times.

Landscaping and berms are to be placed on all four sides of the site. As depicted on the proposed plan, portions of the berms and landscaping are shown in the right-of-way. Landscaping and berms are only allowed in the right-of-way with the approval of the Traffic Engineer. As proposed, landscaping is to meet minimum landscape ordinance requirements. Height of the berms is not specified.

Height of lighting standards is limited to 25 feet or less.

Building setbacks of five to 20 feet are proposed.

As developed and zoned today, the application area is a mix of zoning including: LC Limited Commercial zoning subject to Community Unit Plan DP-261 (limited to LC uses except for a list of uses similar to the applicant's list of excluded uses), LC Limited Commercial, NR Neighborhood Retail, GO General Office, B Multi-family Residential, MF-29 Multi-family Residential and TF-3 Two-family Residential. Existing uses within the application area include: single-family, two-family and four-plex residential; vacant, freestanding and strip retail sales and vehicle sales. The area also contains platted right-of-way (East Eilerts, South Glendale and Elpyco) and utility easements. If this request is approved, these right-of-ways and easements will need to be vacated to accommodate this development proposal.

Property neighboring the application area is also a mix of zoning ranging from: LC Limited Commercial, GO General Office, MF-18 Multi-family Residential and TF-3 Two-family Residential. Existing uses are single-family residences, medical offices and retail commercial as well as vacant commercial. US Highway 54/400 is located to the north of the application area, and north of the highway is a masonry wall dividing the highway from other uses. Kellogg is a nationally significant roadway carrying both intra-city and inter-state traffic. There is also an elementary school located southwest of the corner of Orme and Oliver.

CASE HISTORY: Given the size of this request and the fact this area has been annexed into the city for quite some time, there are too many cases to list.

ADJACENT ZONING AND LAND USE:

NORTH: North of Kellogg, LC Limited Commercial and TF-3 Two-family Residential; single-family residential
SOUTH: TF-3 Two-family Residential, MF-29 Multi-family Residential, GO General Office and LC Limited Commercial; single-family residences and school
EAST: LC Limited Commercial, GO General Office and TF-3 Two-family Residential; medical offices and residences
WEST: LC Limited Commercial and MF-29 Multi-family Residential; Residences, vacant, commercial

PUBLIC SERVICES: Oliver is a four-lane arterial street with 80 feet of right-of-way that widens to a left-turn and two through lanes north bound at Kellogg with two through southbound lanes, south of Kellogg. Oliver carries an average daily traffic volume of 23,307 northbound at Kellogg, and 16,312 average daily trips southbound. A Capital Improvement Project to widen Oliver to five lanes from Harry to Kellogg is scheduled for 2007. Orme is classified as a collector street at this location, and is a paved two-lane street with 29 feet of paving in 60 feet of right-of-way. Kellogg carries an estimated traffic volume of 47,600 vehicles between Oliver and Woodlawn. Kellogg is a significant link in the country's interstate transportation network.

The *Trip Generation Manual* indicates that "supermarkets" can be expected to generate 111 average daily vehicle trips (ADT) per 1,000 square feet of floor space while "free standing discount super stores" can be expected to generate 47 average daily vehicle trips (ADT) per 1,000 square feet of floor area. This project could generate 7,991 average daily trips if it generated the average number of trips projected by the Trip Generation Manual.

Sewer and water services and other utilities are available to serve the site, however with the proposed redevelopment right-of-way and easements will have to be vacated and substitute easements and right-of-way granted. Stormwater drainage improvements necessary to serve the site can also be resolved at the time of platting.

To contrast this proposal of 159,485 square feet with some other Wal-Marts in the area, the Wal-Mart at 29th and North Rock is approximately 194,950 square-feet in size. The Wal-Mart on east Kellogg is approximately 215,040 square-feet in size. The Dillon's at Central and Rock was approximately 69,000 square feet (does not include the current expansion) while their store at Rock and 21st Street is approximately 58,000 square feet in size.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* depicts this site as appropriate for "regional commercial." "Regional commercial" is a category that encompasses major destination area (center and corridors) containing concentrations of commercial, office and personal service uses that have predominantly regional market areas and high volumes of retail traffic. Commercial Location Guideline # 3 stipulates that any commercial use in proximity to residential development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses.

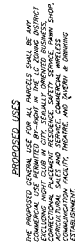
The Planned Unit Development district is a special purpose district that is intended to encourage innovative land planning and design and avoid the monotony sometimes associated with large development by varying the application of the standards of the code and promoting quality urban design by taking advantage of a site's characteristics.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. The site is to be replatted within 1-year of City Council approval.
- B. Revise General Provision 2 to reflect the more detailed explanation of proposed uses found in the center bottom of the draft PUD: Proposed general uses for all parcels shall be any commercial use permitted by-right in the LC zoning district excluding: night club in the city, sexually oriented business, correctional placement residence, safety service, pawn shop, agricultural sales and service, commercial wireless communication facility, theatre, tavern and drinking establishment.
- C. Revise General Provision 7. to clarify that signage will comply with the sign code unless specifically modified by this PUD.
- D. Included "billboard" as a prohibited sign type in General Provision 7.D.
- E. Increase building setback lines along all property boundaries to 35 feet.
- F. In addition to code required landscaping and buffering and prior to opening the store for sales, a six to eight-foot masonry walls shall be installed along the east and south property lines.
- G. Traffic Improvements:
 1. Guarantee the installation of an additional driving/turn lane on Orme from Oliver 450 feet east to the western-most access point east of Oliver.
 2. Guarantee the installation of the Oliver Street improvements depicted on the plan – left-turn south bound lane at Orme and Oliver, raised median in Oliver at the Oliver Street entrance, traffic signal at Oliver and Orme and intersection improvements at Oliver and Orme.
- H. Modify General Provision #13 to clarify that all parcels, including any parcels that may be created in the future, within the PUD shall share uniform architectural character, color, texture and materials.
- I. Revise General Provision 11: Cross Parcel circulation is to be provided for all *lots or* parcels platted for retail, commercial or office uses.
- J. Add a General Provision to clarify that outside display and storage shall comply with LC district standards.
- K. Delivery of goods and products to the store shall be prohibited between the hours of 11:00 p.m. and 5:00 a.m.
- L. The site shall be developed in conformance with all applicable codes unless specified differently within this P.U.D. If developed as a Wal-Mart, any buildings constructed on the site shall be constructed as depicted on the elevations presented at public meetings, and shall require Director of Planning approval prior to the issuance of building permits.
- M. Eliminate the reference to "D.P." at the top of the plan to "P.U.D."
- N. The applicant shall guarantee the installation sidewalks.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property neighboring the application area is a mix of zoning ranging from: LC Limited Commercial, GO General Office, MF-18 Multi-family Residential and TF-3 Two-family Residential. Existing uses are residences, medical offices and retail commercial as well as vacant commercial. US Highway 54/400 is located to the north of the application area, and north of the highway is a masonry wall dividing the highway from other uses located to the north.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is a mix of zoning including: LC Limited Commercial zoning subject to Community Unit Plan DP-261, LC Limited Commercial, NR Neighborhood Retail, GO General Office, B Multi-family Residential, MF-29 Multi-family Residential and TF-3 Two-family Residential. Existing uses include: older single-family, two-family and four-plex residential, freestanding retail, strip retail sales and vehicle sales. Most of the area is developed. Some of the area is vacant property zoned for retail uses. The developed properties could continue to be used as currently developed and the vacant property could be expected to develop as currently zoned. However, the site is probably becoming less and less attractive as a residential area due to the expansion of Kellogg and the encroachment of new commercial zoning (DP-261).
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Portions of the site are already developed or approved for commercial activity; other portions are developed with office and residential uses. Approval of the request will increase the extent and scale of commercial activity in the area, especially with respect to increased traffic, building size and hours of operation, which will impact remaining residential uses. However, portions of the site that are already zoned LC allow for 130,090 square feet of commercial uses now (60,329 (DP-261), 43,451 (Davis Moore) and 26,310 square feet of scattered LC zoning). The recommended conditions of approval, such as the masonry screening, landscape buffering, access controls and road improvements will mitigate some of these affects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial will presumably result in a loss of economic opportunity for the applicant, and a loss of convenience and choice for potential patrons of businesses that could be located on the site. Approval of the request will provide a greater number of commercially zoned lots, which presumably increases choice and convenience in the market place, especially with respect to inner city areas. If the request is developed with Wal-Mart, some have argued that it could also mean a loss of local independent businesses due to their inability to compete with a multi-national company. At this point, there has not been any data submitted regarding the local market to support or refute that argument. It has also not been the practice of the MAPC to factor in wages, insurance coverage or pricing practices of individual businesses when considering land use requests. If the zoning is approved, there are not any stipulations within this proposal that require the site to be developed with any particular brand or company.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is in conformance with the *2030 Wichita Functional Land Use Guide* as the plan depicts this site as appropriate for "regional commercial" uses. The site is located at an arterial street intersection with a nationally significant freeway, which is where significant commercial developments would be expected to occur.
5. Impact of the proposed development on community facilities: Approval will result in an increase in publicly supplied services such as sewer, water and traffic. However, the improvements that will be obtained either by the zone change or by platting should ensure that adequate facilities are in place.



QUARTY NO. 7

TOTAL NET AREA . . . 531,019.37 SQ. FT. OR 12.20 ACRES ±
MAXIMUM GROSS FLOOR AREA . . . 20% OF 159,485 SQ. FT. ±
MAX. BUILDING HEIGHT . . . 40 FEET (HIGHER MEASURED TO MID-ROOF)
MINIMUM SETBACK . . . ADJACENT TO DAVEN STREET 25' ADJACENT
TO KELLING STREET 15' ADJACENT TO BLACKLEY
STREET 15' ADJACENT TO 10TH STREET 15'
1 SPACE UNIT 250 SQ. FT. OF FLOOR AREA
MINIMUM PARKING . . . 614 SPACES (311 REQUIRED BASED ON BUILDING
PARKING)

PROPOSED USES

PROPOSED USES

THE PROPOSED GENERAL USE FOR ALL PARCELS SHALL BE ANY COMMERCIAL USE PERMITTED BY ZONING IN THE ZONING DISTRICT EXCLUDING NIGHT CLUB IN CITY SQUARELY OWNED DISTRICTS. ADDITIONAL PERMITTED USES MAY BE: RESTAURANT, BAR, CATERING, CONFECTIONERY, PLACEMENT RESERVE, SAFETY SERVICE, PAVILION SHOP, AGRICULTURAL SALES AND SERVICE, COMMERCIAL, OFFICE, COMMUNICATION FACILITY, THEATRE, AND Tavern & DRINKING ESTABLISHMENT.

1. THE ABOVE IS THE SUBSTANTIVE FACTS DISCLOSED AT THE TIME OF 1/10/64.
2. THE DISCLOSURE IS BASED ON THE INFORMATION PROVIDED BY THE INDIVIDUALS NAMED IN THE DISCLOSURE.
3. THE DISCLOSURE IS BASED ON THE INFORMATION PROVIDED BY THE INDIVIDUALS NAMED IN THE DISCLOSURE.
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PLANNED UNIT DEVELOPMENT	
WAL-MART AT OLIVER ADDITION	
KELLOGG & OLIVER STREET	
WICHITA, KANSAS	
SMC SMC Consulting Engineers, P.C. 815 West 10th Street, Suite 101 Wichita, Kansas 67202 Phone: (316) 262-1111 Fax: (316) 262-1112 E-mail: info@smc-engineers.com	
DATE: 8/26/98	SCALE:
DRAWN BY: JAC	PROJECT NO. 98-001
CHECKED BY: JAC	PROJECT TITLE: 14,000 sq. ft. addition
APPROVED BY: JAC	SHEET NO. 1

DALE MILLER Planning Staff presented the staff report.

DOWNING reported for the record that all MAPC members received correspondence from the applicant.

MILLER added that there were twenty-one applicants on the case and that he had provided MAPC members a list of the names of the applicants at today's meeting. He said DAB III had voted to approve the application 8-2. He said they had requested three additional items not in the staff report; namely, wheel locks on carts, widening Orme from Beckley to Oliver, and adding the bus drop-off parking lot at Jefferson Elementary School.

MILLER responded to several questions including the proposed left turn lane at Orme (he said Traffic Engineering was researching that recommendation); landscaping along the south wall (he clarified that maintenance of any landscaping whether inside or outside the wall would be the applicant's responsibility, and added that a detailed landscape plan would need to go through the normal approval process); sidewalk (he clarified that a sidewalk around the entire perimeter of the site was included in the plan, at the suggestion of the applicant); off street parking (he clarified that there was 60 feet of street right-of-way and currently there were not any "No Parking" signs along Orme).

BOB KAPLAN, 430 N. Market said it was a privilege to represent an organization with the background, experience, and resources to bring together an exceptionally qualified team that had the ability to fund the project and meet the recommendations of the experts they employed to advise them. He said it was more important that the MAPC hear from the site engineer, traffic engineer, and Wal-Mart representatives then to listen to him rehash the case. He mentioned that the project has been in the making for approximately one and one-half years. He said they have conducted numerous meetings and given presentations on the proposal to the City, School Board, District Advisory Boards, and neighborhood associations. He said the plan was well thought out, well planned, and that the experts had done an objective analysis of the proposal. He introduced the following individuals:

- Site Planning and Engineering - Terry Haynes, SMC Consulting Engineers, P.C., Oklahoma City, OK
- Traffic Engineering – Todd Butler, Traffic Engineering Consultants, Oklahoma City, OK
- Architectural Design – Brett Martinez, Law Kingdon, Wichita, KS
- Realty Agent - Grant Tidemann, J.P. Weigand, Wichita, KS

KAPLAN concluded by saying that he had heard from Andy Solter from the Dry Creek Neighborhood Association and that Mr. Solter had indicated that the majority of Dry Creek residents were supportive of the project.

TERRY HAYNES, SMC Consulting Engineers, P.C., commented that they had scaled down the size of the store to 135,000 square feet of grocery and retail shopping, with a garden center on the south side of the development. He said there would be a service area on the east side of the building with a couple of drop off docks. He said the trash area would be completely enclosed and screened with raised walls. He said there would also be walls along the south and east property lines to provide screening for the neighborhood. He briefly reviewed the proposed interior landscape plan, which consisted of trees, shrubs and plantings along the perimeter of the site. He said the sidewalk around the site would be curve-linear along Kellogg and that they would remove the current sidewalk. He said the building exterior would be a "quick brick" material in an earth tone.

TODD BUTLER, Traffic Engineering Consultants, said they had conducted a traffic study on the site including current trip generation rates, amount of traffic projected by the new store, and how that would affect the existing traffic in the area. He said they believed Kellogg had sufficient capacity to accommodate traffic expected to be generated by the store. He said they felt traffic might be a problem at Oliver and Orme, and that it was their recommendation that the intersection be signaled. He said they were having discussions with the City Traffic Engineering regarding north- and south-bound turn lanes onto Oliver and stacking issues during peak hours of the day; widening of Orme; right-of-way and utility relocations.

ANDERSON asked about store hours and number of employees?

HAYNES said the facility would be a 24-hour operation, and that it would employ approximately 350 employees, all hired locally.

There was discussion concerning whether trucks would need additional turning space along Orme; entrance to the store from Kellogg; irrigation of landscaping; creation of berms and other landscaping issues; installation of an extra lane along the east edge of the property, and how that installation might affect power pole relocation and landscaping issues.

Tape 2, Side 1

Responding to a question, **HAYNES** said they would like to place the south wall as close to the parking lot as possible and add any additional width to the street so that drivers could get out of driveway without having to look around the wall. He said that could create a park-like setting along the south side of the street.

ALDRICH asked if they would deed that back to the City for a park?

HAYNES said he needed to defer to someone else on that question.

GRANT TIDEMANN, J.P. Weigand said they have had some discussion with the neighborhood association concerning a pocket park in the area. He said they were told that the Park Board has looked at some other areas along Dry Creek that might be more suitable for a park location.

ALDRICH asked if Wal-Mart would consider purchasing those properties along the south side of Orme between Beckley and Oliver?

TIDEMANN said Wal-Mart has not decided to go forward with that idea.

BISHOP asked if the traffic engineer analysis had considered pedestrian and bicycle traffic. She also asked if Wal-Mart would provide bicycle racks at the store?

BUTLER commented that they felt the widening and replacement of the sidewalk around the site would take care of pedestrian traffic. He said they also recommended that the existing mid-block pedestrian crossing be relocated to the intersection. He said studies have indicated that cities have been eliminating mid-block crossings. People do not see mid-block crossings all the times. He said at signalized intersections, people are expecting to stop. He said if the City Code required bike racks, they would comply.

GISICK asked whether parking would be allowed along Orme?

BUTLER said whether parking would be allowed along Orme would be determined based on discussions with adjacent property owners and how much turning radius trucks needed to negotiate the area.

HILLMAN asked about the possibility of shifting the entire building five or six feet to the north?

HAYNES explained they needed to comply with parking requirements and access to the building.

RUTH COLLINGWOOD, 4949 E. Orme said she lived directly south of the proposed Wal-Mart site since 1962 and, that she was opposed to having a 24-hour Wal-Mart across the street. She said this used to be a quiet residential area with two dead ends, but she said traffic and trash have increased since the road was opened up. She said they have Parklane Shopping Center and the Wichita Mall close to the area and she didn't understand why they needed a Wal-Mart. She asked board members how they would like a 24-hour/seven day a week business 46 feet from their front door with all the trash, noise, and traffic? She also asked how safe it was for Jefferson Elementary School children to be crossing six lanes of traffic? She concluded by saying that the property values of the residences in the area will go down.

BILL SKAER, 116 N. Terrace said he did not like Wal-Mart in general, and quoted several articles from the *Wall Street Journal* citing where Wal-Mart had scaled back expansion as sales maxed out their market in rural areas, and that they planned on expanding into urban areas. He said the article also said that Wal-Mart was encountering heavy resistance from communities in the South. He said he felt Wal-Mart posed a threat to local businesses, and that there was no need for a Wal-Mart at this proposed location because there was a Wal-Mart Super Store just four miles down Kellogg, and that there was also a Target one mile from this location. He said few people were in favor of the application when it was presented at College Hill, and added that they were told that their opinion did not matter. He said they would be letting elected officials know how they felt. He also mentioned traffic in the

area and child safety with schools kids crossing at a busy intersection when they were used to crossing in the mid-block area. He also mentioned that this would put Parklane Shopping Center out of business. He mentioned use of the Wichita Mall as an alternative location, and added that this application could be stopped here and now. He concluded by quoting an article from the September issue of the *Wall Street Journal* entitled "Wal-Mart getting Cold Shoulder in Miami, Florida." He said this proposal does not fit in with the character of the College Hill neighborhood and that he would appreciate the MAPC turning down the application.

DEBBY CAIN, 4815 E. Orme said she has lived in her residence for 12 years, and that her house would face Wal-Mart. She said her parents and sister also live on Orme, and that she grew up on this street. She said although Wal-Mart might be nice, and that a lot of people shop there, and Dry Creek neighborhood may have approved the location, they were not directly across the street from it. She said she has looked at the Comprehensive Plan, the nine "Golden" rules of zoning, the staff report and has talked to Traffic Engineering staff. She said 14 protests petitions have been filed from 19 of the homes that border the proposed Wal-Mart. She said Grant Tidemann has talked to a lot of people, and that all of the homeowners on Orme were willing to sell to Wal-Mart instead of having them as their neighbors. She said the Comprehensive Plan indicates "low density housing should be buffered from commercial development by medium density or other things." She said the Plan also addresses quality of life issues, and that she could not understand how this could go through. She asked why doesn't their opinion count? She said she has been a Wichitan for many years, and although Wal-Mart might be a good neighbor, they did not want them on their doorstep. She added that they might not even be allowed to park in front of their own homes. She also mentioned that large trucks from Davis Moore get stuck along Bleckley. She said the traffic on Orme since Dry Creek has been developed was already ridiculous, and added that there were also drainage issues. She asked about unloading trucks in the middle of the night? She asked what about the noise and pollution from the diesel engines coming right across the street into their homes and yards? She said she thought the application was in conflict with the "Golden" rules of zoning and the Comprehensive Plan. She asked that the MAPC please not ruin the quality of life for those who own homes in the area. She concluded by asking the MAPC to consider their objections and not let this happen to them.

GAIL BAXTER, 4825 E. Orme said he has lived at his current address since 1960, and that it used be a nice quiet street with dead ends at both ends of the street where kids could ride their bicycles. He said he understood that the Dry Creek neighborhood was very much in favor of the Wal-Mart; however, he said like prisons, people don't want them in their back yard. He said he has lived there for 46 years, which was better than half of his life. He said he understood that someone had to be sacrificed like the military in WWII who sacrificed men for the good of the division. He said 17 homeowners were going to be sacrificed for Wal-Mart, and they don't want it.

HAIG KURDIAN, 145 N. Crestway said he was a lifelong resident of College Hill. He said he was strongly opposed to a Wal-Mart at Kellogg and Oliver. He said all of the projections on traffic counts, lighting, changing school crossings, truck traffic, etc. were just that – projections. He said no one could predict what was going to happen once the Wal-Mart was constructed. He said the noise, dust, dislocation and stress of the construction process itself was going to be bad enough to say nothing of security issues. He said introducing something on this scale where it was never intended to be was a mistake. He said the impact on this environs, which was designed for small businesses, residences and schools could not be predicted. He said this was a giant commercial enterprise that would require many cars, trucks and people to succeed financially. He said property value and quality of life would suffer in one of the prettiest and most tranquil residential areas in the south of the county. He said there would be a sad consequence for putting commercial enterprises where they should not go. He urged the MAPC to deny the application.

KEVIN NASH, 12403 S. 153rd St. said he supported the proposal and zoning for southeast Kellogg. He said he thought it would have a positive economic impact for the area, and also mentioned the improvements at Jefferson Elementary School to build a parking lot for teachers at Gilbert and Pershing streets. He said he had ten years experience in public works and agreed with the idea of moving cross walks to intersections, that it made children a lot safer. He said he and his wife supported approval of the zoning request.

BOB KEIMIG, 4901E. Orme said he lived across the street from the proposed site, and that he was especially concerned about traffic, which currently backs up past his house at times making it almost impossible for him to back out of or to get into his driveway. He said he was also concerned about the quality of life in the area, and said if Wal-Mart shoplifters felt comfortable stealing from the store they would also feel comfortable stealing from homes in the area. He said home owners might not even be able to sell their property with crime, traffic, shopping carts in their yards, etc.

MARY CAITLIN SMITH, 3805 E. English said she has seen a lot of development and things that bring people to Wichita. She said she thinks Wal-Mart is a great idea. She said this was not going to be one of those big blue boxes; that it was lovely and upbeat, and that a new building would be much better than what is the location now. She said her heart goes out to the people who spoke about their homes and families who live in the area. She asked Wal-Mart to take kindly to them, and work with them to buy their properties, and try to accommodate the people who have lived there so long. She said aside from the residents and their concerns, she thought it was a fabulous idea. She said Wichita needs businesses here so they won't have to go Kansas City to shop.

ALBERTA PINKSTAFF said she has lived in the area a long time and that she felt it was better to laugh than to cry right now, even though there were some things about the development that made her want to cry. She read a short poem that she wrote regarding her feelings about Wal-Mart.

KAT R. MARTIFORE, for **KATHERINE KITTLE** said she was present to represent her mother **KAT R. MARTIFORE**, 513 South Laura mentioned handicapped and disabled individuals having better access to this Wal-Mart because it was not located on the outskirts of town. She said in other urbanized areas, Wal-Mart has fit into the area and become part of the neighborhood. She said she liked the idea of having a smaller Wal-Mart in an urban area because of the quality of the products and the low prices.

LARRY ROSS, 2716 E. Douglas said he checked the telephone book and that there were 10-12 listings for Wal-Mart. He asked how many are enough? He mentioned an article in today's paper concerning an urban concept where the 1st and 2nd stories of a building were retail, and the 3rd, 4th, and 5th floors were used for parking. He asked why that couldn't be considered as part of this development? He said he had concerns about big boxes because there were numerous empty big boxes scattered throughout the City. He also mentioned drainage issues and commented that a 25,000 square foot space produced 413,000 gallons of water for every inch of rain.

Tape 2, Side 2

He asked why was there just the minimum landscaping? Couldn't Wal-Mart double or triple that requirement? He said surely they could afford it. He said innovative ideas were desirable. He added that bicycle and pedestrian amenities was terribly lacking. He also asked about an outdoor break area for employees that could also be used by the public? He mentioned that a 24-hour business was totally out of character for this area. He said the project isn't ripe, and should not be advanced until it is ripened.

JOSEPH WORTHEN, 310 E. Boston said he was in favor of this particular store. He said he lived five blocks west and two and one-half blocks south of the proposed store location. He said when he takes his adopted 8-year old to Jefferson Elementary School. There are cars on both sides of the street trying to get their kids in and out, and that anything done here would be a massive improvement. He said getting across Oliver was also a problem. He said the traffic Friday evening is terrible.

SUSAN _____, commented that she had just purchased her home on Bleckley court because it was a nice quiet area. She said she could only imagine what it is going to be like having Wal-Mart in the back yard. She said she is not really opposed; that she liked the idea of walking to the grocery store, but that she was concerned about property value and her ability to sell her house in the future.

MARTHA BLACK said she lived at Georgetown, which was quite a ways away from the Wal-Mart site. She said her main concern was for the school children that lived east of Oliver because of the traffic confusion and safety issues. She said having a traffic light at Orme and Oliver and a left turn for trucks increases that danger. She suggested some kind of plan for children to exit to the back of the school property clear to Gilbert. She said that would be safer than crossing Orme or Oliver.

DONNA LUCKUS, 513 South Pershing said she lived two blocks west of Kellogg and Oliver. She said she loves her house and plans on staying. She watched the Kellogg expansion go from business back to residential. She mentioned that 10 years ago Massachusetts voted Wal-Mart out, and that she heard an attorney for Wal-Mart respond, "We've got the time and we've got the money to fight this." She said at that point, they did not have her business and that she has not stepped into a Wal-Mart except twice since then, because she felt Wal-Mart was being a bully. She said College Hill is like small town in Wichita, and that Douglas and Oliver was like the downtown area. She said she has been patiently waiting for that intersection to be developed at Kellogg and Oliver with something that would attract people that can walk there. She said she was concerned about hours of operation, trucks, and increased traffic. She also asked what happens to all the work that was done at Parklane

Shopping Center. She said there were plenty of other places that were appropriate for the Wal-Mart. She said this area was not suited for them, and that it will be a misplaced monstrosity. She said the Wal-Mart does not fit, and asked the MAPC to imagine what should be located at the site.

BOB KAPLAN, agent for the applicant introduced Mrs. Angie Stoner, Wal-Mart Public Affairs.

ANGIE STONER, 702 SW 8th Street, Bentonville, AR thanked the MAPC for taking the time to hear this proposed application. She said Wal-Mart is proud to have five stores and two Sam's Clubs in Wichita. She said they understand that you can't trade quality of life for new development, and that is why Wal-Mart employs a team of experts to address all of the concerns of this proposed site. She said the team has met with staff and two different neighborhood associations to discuss the proposal, and to try to provide the best looking store for this area. She said it has been their experience that convenience and quality products at a low price are important. She also commented that the store has a totally new look. She concluded by saying that there would be great job opportunities, and that Wal-Mart will provide 350-400 associates benefits as well as charitable giving in the community.

BISHOP asked if they would be willing to make a commitment to provide bike racks even if they are not required?

STONER said they would comply with everything that was required. She said they would definitely look into the matter and see if that was something they could provide at this location; however, she could not commit to that today.

BISHOP said she agreed with moving the mid-section traffic light crossing; that it was extremely dangerous the way it was now configured. She also said she would like to see a four-way pedestrian activated light at Oliver and Orme.

ALDRICH asked if they had heard about property values decreasing when Wal-Mart or other retail type stores go into an area?

STONER commented that she didn't have specific data on that and that every situation is different. She said she has seen property values increase in other locations once Wal-Mart or any kind of retail development takes place. She said a vibrant shopping center is better than having an empty lot next to your home.

ALDRICH asked if Wal-Mart would consider installing a "flyover" type crossing for pedestrian traffic along Oliver?

STONER said she did not know if that were something they would consider.

HILLMAN mentioned property values, the impact on homes on the south side of Orme, and increased traffic on Orme. He asked about the possibility of Wal-Mart or another developer buying the homes along Orme and developing a strip mall in that area? He also asked if Wal-Mart had looked at the Wichita Mall as a location, which was standing empty?

STONER commented that Wal-Mart had been looking at this location for a long period of time and that their analysis of this location contained a variety of different considerations including customer convenience, traffic patterns and experience from existing stores. She said this location was the best fit for that criterion.

Responding to a question from **BISHOP**, **MILLER** explained that development of the site must be consistent with the site plan and drawings that were presented at all the public meetings.

MOTION: To approve subject to concerns expressed by the Commission at this meeting.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (12-1).

HILLMAN - Nay

There was brief discussion concerning truck traffic and any limit on times of the day trucks would be allowed to enter the area and use of the Wal-Mart parking lot by neighborhood residents.

HAYNES said he didn't know if the company had a policy on parking lot use.

BISHOP said she would support the motion even though she was not a Wal-Mart shopper. She commented that in-fill development was not perfect by any means and that she found the affect on those living nearby extremely distasteful, but that she felt this was good land use consideration.

11. Workshop

DOWNING mentioned the possibility of holding a "workshop" on Thursday, November 30, 2006 at 1:30 p.m. There was brief discussion concerning an agenda. It was suggested that commission members call or e-mail their questions or concerns to Director Schlegel. It was also requested that a reminder and agenda be mailed to each Commission member.

The Metropolitan Area Planning Department informally adjourned at 4:55 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)